



ARBITRATION AWARD

Case Number : PSCB462-09/10

Panelist : Mncedisi Simoyi

Date of Award: 14 July 2010

In the arbitration between:

PSA obo C PETERS

Employee

and

DPARTMENT OF EDUCATION, EASTERN CAPE PROVINCE

Employer

Union/Employee's representative: Mr B S Martins

Telephone : 048-801 8614

Fax number : 048-801 8638

Email address : Bruce.Martins@DCS.co.za

Employer's representative : None

The employee referred this dispute, relating to the interpretation and application of a collective agreement, to this council, in terms of Resolution 14 of 2002 (the Resolution). The employee was represented by Mr B S Martins, an official of the Public Service Association (PSA), and there was no appearance on behalf of the employer. Mr Klaasen, an official of the employer stationed at the District Office confirmed that the employer was aware of the arbitration proceedings. The proceedings were held at the offices of the Department of Education, District Office, Cradock.

I proceeded to arbitrate the matter in the absence of the employer's representative, having duly satisfied myself that the employer was aware of the date, time and venue of the arbitration proceedings. I have also satisfied myself that a certificate of non-resolution was issued and that the matter is ripe for arbitration.

I am required to determine whether the employer has failed to comply with the provisions of the Resolution, in particular whether the employer has failed to deal with the employee's grievance within the prescribed time frame.

The employee testified that he was appointed to the post of Labour Relations Practitioner with effect from 1 March 2008 and has since been stationed at the employer's District Office, Cradock.

From the date of his appointment, the employee was placed at salary level 7, and has been earning a salary at that level until the date of the arbitration hearing.

In 2009 the employee discovered that other Labour Relations Practitioners at other district offices and the Provincial Head Office were remunerated at salary level 8. He addressed correspondence to the District Manager, Cradock, in an attempt to have the issue rectified, but to no avail.

On 09 November 2009 the employee lodged a formal grievance with the employer asking that he be elevated to salary level 8, in parity with other employees performing the same job and holding the equivalent positions.

The employee had made telephonic inquiries to the Provincial Head Office regarding his grievance, but with fruitless results. He testified that, in terms of the grievance procedure the employer was required to respond to his grievance within thirty (30) days of receipt thereof , and that the parties have not agreed to any extension of time.

Having heard the employee's evidence and argument by Mr Martins, I am satisfied that the employer has breached the provisions of Clause 8 of the Resolution, which stipulates that the department must deal with the grievance within thirty (30) days of receipt, unless there is mutual agreement to extend such period. In this matter, there was no such extension.

In the circumstances, I make the following award:

1. The employer is ordered to respond to the employee's grievance within thirty (30) days of receipt of this award.
2. There is no order as to costs.

Mncedisi Simoyi

PSCBC Panellist