



PHSDSBC

PUBLIC HEALTH AND SOCIAL DEVELOPMENT
SECTORAL BARGAINING COUNCIL

ARBITRATION AWARD

Panellist: **JOSEPH MPHAPHULI**

Case No: **PSHS1049-16/17**

Date of award: **09 May 2018**

In the matter between:

PSA obo Sabesho, TA

(Union/ Applicant)

and

Department of Health- Northern Cape

(Respondent)

1. DETAILS OF HEARING AND REPRESENTATION

1.1 The hearing was conducted at the Department of Social Development. The hearing was conducted on 30 April 2018 and in terms of Section 191 of the Labour Relations Act, 66/1995.

1.2 Mr. Mokgothu appeared for the Respondent. The Applicant was represented by Mr. Mohammed, PSA official.

2. ISSUE IN DISPUTE

2.1 I had to determine whether there was an unfair labour practice or not, if so, what remedy would be appropriate.

3. BACKGROUND TO THE DISPUTE

3.1 The Applicant was recruited in February 2016, she was employed as a Social Auxiliary Worker-Substance Abuse Unit in Kimberly at a monthly rate of R 11 700.00. The Applicant wished to be provided with transport to Warranton were she has been relocated to, alternatively to be placed in Kimberly, her place of residence.

4. COMMON CAUSE ISSUES

4.1 The Applicant applied for an advertised position in or about November 2015. The position was based in Kimberly where the Applicant was resident. Her application was successful. She was appointed to the position and was placed in the post in Kimberly. She served in the position in Kimberly from 01 February 2016 until 31 March 2016 after which she was moved to Warranton.

5. SURVEY OF EVIDENCE

5.1 APPLICANT'S CASE

5.1.1. To date the Applicant has been in the service of the Respondent for two years. The service point for which she applied and was employed as named Hlokomelo, in Kimberly.

5.1.2 According to her appointment she was required to do other related duties in Warranton at the rate of about two trips a week. The Respondent provided transport for the trips to and from Warranton.

5.1.3 She was summoned to the manager's office in or about March 2016 where she was instructed to report for her daily duties in Warranton.

5.1.4 The Respondent did not commit to providing transport to commute between Kimberly and Warranton. She raised the concern but was told that her employment was within the Frances Baard District Municipality. Both Hlokomelo and Warranton were in the same district.

5.1.5 She pointed to the manager that it could not be possible for her to stay in Warrenton as she had a sick child who needed her care.

5.1.6 In the second place she did not have the desire to relocate to Warranton.

6. ANALYSIS OF EVIDENCE AND ARGUMENT

6.1 The referred dispute refers to an alleged unfair labour practice as contemplated by Section 186 (2) (a) re: benefits.

6.2 The concept unfair labour practice where it concerned benefits refers to extra remuneration or remuneration in addition to ordinary remuneration.

6.3 The matter in dispute did not fall within the confines of Section 186(2)(a) of the Act.

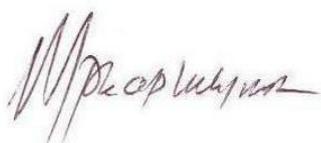
6.4 Transfer and or transport between the place of residence and the workplace are not labour practice disputes as contemplated by the Act.

6.5 The referral fell out of the provisions of the Act and was not arbitrable under the unfair labour practice regime.

7. AWARD

7.1 There was no unfair labour practice in the context of Section 186(2)(a) of the Labour Relations Act 66/1995, as amended.

7.2 I dismiss the referred dispute.



Joseph Mphaphuli