



PHSDSBC

PUBLIC HEALTH AND SOCIAL DEVELOPMENT
SECTORAL BARGAINING COUNCIL

ARBITRATION AWARD

Commissioner: **JOSEPH MPHAPHULI**

Case No: **PSHS137-18/19**

Date of award: **22 September 2018**

In the matter between:

PSA obo Molale, SP

(Union/ Applicant)

and

Department of Correctional Services- Northern Cape

(Respondent)

DETAILS OF HEARING AND REPRESENTATION

1. The hearing was conducted at the Area Commissioner's Office in Kimberly. The hearing was conducted in terms of Section 191 of the Labour Relations Act 66/1995.
2. Mr Zalid Mohammed, official of the Public Service Association (PSA), an employee organisation appeared for the Applicant.
3. The Respondent was represented by Mr Sello Finger, official in the Respondent's service.
4. The proceedings were digitally recorded.

ISSUE IN DISPUTE

5. I had to determine the correct interpretation of Clause 3.2.5.3 of Resolution 3/2007.

BACKGROUND TO THE DISPUTE

6. The Applicant served in the capacity of General Nurse and was remunerated at R 247.00.00.

7. The Applicant filed for remuneration at the regulated rate in the event of a favourable outcome.

SURVEY OF EVIDENCE

APPLICANT'S CASE

8. The Applicant took employment with the Respondent on 01 August 2010. She was employed as a general nurse.

9. She filed a grievance following the Respondent's failure to recognise her qualification as a primary health care professional. She acquired the Diploma in December 2013. She practiced her profession in a primary health care.

10. Following Resolution 3/2007 with specific reference to Clause 3.2.5.3(i) the Applicant was qualified for translation to a speciality post.

11. To the best of her knowledge, the Applicant should have translated from salary level R 175 809.00 to R 362 559.00 effective 01 April 2014 to 30 April 2018.

12. The difference between what the Applicant was paid and what was due to the Applicant between 01 January 2014 and 30 April 2018 amounted to R 380 957.47.

13. The Applicant applied for the payment of the difference owing to the Respondent's failure to comply with Resolution 3/2007.

14. The Respondent did not call for evidence in its case.

ANALYSIS OF EVIDENCE AND ARGUMENT

15. Clause 3.2.5.3 of the Resolution 3/2007 which was at the centre of the dispute read:

3.2.5.3 Translation of Professional Nurse (Registered Nurses) to speciality posts.

(i) A professional Nurse (Registered Nurse) who occupies a post in a nursing speciality, and who.

(a) is in possession of a post basic clinical nursing qualification listed in Government Notice R212, as amended, shall translate to the appropriate speciality post, ...”

16. The clause is couched in terms that are plain and to the point. The translation is to a speciality post. The requirement for translation is firstly that the affected professional nurse must be in possession of a post basic clinical nursing qualification. In the second place the professional nurse must occupy a post in a nursing speciality.

17. The Applicant was in possession of the required qualification and was employed in a speciality environment.

18. The Applicant although qualified and serving in a specified environment did not occupy a speciality post.

19. Accordingly, the Applicant did not meet all the stipulated requirements for translation. The Applicant occupies a general nurse post.

20. To qualify the Applicant would have to occupy a speciality post, i.e. primary health care practitioner post in addition to the qualification she already possesses.

21. The qualification alone, even though the Applicant serve in a speciality environment falls short of the criteria for the required translation.

AWARD

22. The Respondent's interpretation of Clause 3.2.5.3(i)(a) is consistent with the provisions of the Resolution.

23. I dismiss the referred dispute.



Joseph Mphaphuli