



ARBITRATION AWARD

Panellist/s: Lufuno Lawrence Ramabulana
Case No.: PSHS62-10/11
Date of Award: 22-Sep-2011

In the ARBITRATION between:

HOSPERSA obo Pos, K. and 6 others
(Union / Applicant)

and

Department of Health - Northern Cape
(Respondent)

DETAILS OF THE HEARING AND REPRESENTATION

- 1 The arbitration should have been heard on the 19th November 2010 however at the sitting both parties agreed only to file heads of arguments and to have their matter determined on the basis of their arguments.
- 2 The heads of arguments for the applicant was prepared by Wyne Olivier and Jack Pudikabekwa prepared and filed the heads of arguments for the respondent.
- 3 I received the heads of arguments from the council on the 5th February 2011 and immediately prepared the award.

ISSUES TO BE DECIDED

- 4 The dispute has been couched as one relating to collective agreement and/or interpretation.
- 5 The applicant believes the respondent is not interpreting regulation properly when dealing with drivers who they placed at different salary levels.

- 6 The respondent believes the employees have been rightly placed and they are seeking to be promoted to higher salary notch with this application.

THE APPLICANTS' VERSION

- 7 The applicants' argued their case on the closing arguments and also presented documents marked 1 to 39 to back up their argument.
- 8 In short they argued that applicants are all drivers appointed at different levels by the department. They referred to a document for drivers marked 36 to 39 on the applicable policy position on drivers.
- 9 The applicant also referred me to the CORE document that regulates the payment of employees doing the same job and the fact that such employees must be paid the same rate or pay.
- 10 The applicants' representative also referred to additional functions that employees are now required to perform.

SUBMISSIONS BY THE RESPONDENT

- 11 The respondent informed me what the applicant seeks to achieve is basically a promotion which is impossible under the current system and further that I lack jurisdiction on the matter on that basis and on the basis the case was probably referred late.
- 12 The respondent seeks that the matter be dismissed as they believe the issues raised and the claims are in terms of old CORE and PAS which have been overtaken by the public service regulations of 2001.

ANALYSIS OF EVIDENCE AND FINDINGS

- 13 The respondent claims applicants are seeking promotions through the referral of the dispute and are as such not illegible or have referred the dispute to an institution that does not have the authority to deal with the matter.
- 14 They do not dispute applicants are being remunerated at different levels though performing the same work categorised in terms of the documents submitted by the applicants' representative.
- 15 They further claims the referral claims are made under the auspices of an old prescripts, PAS and CORE.

16 A look at the department of Public Service and Administration's website gives a different picture, a form of explanation on the work of CORE are explained as *"In the past, departments could use the PAS to define new jobs and set remuneration levels. The COREs aim to provide improved advice with respect to the definition and grading of jobs, without re-instituting this prescriptive framework. They also establish a new system for categorising employment, in order to analyse trends in public-service employment".*

17 It appears from the documents CORE is still very much part of the Departments' guiding documents and it directs how things related to remunerations should be handled.

18 From the submissions made by the applicant's representative it does not seem they seek promotion of the employees but seeks to have employees categorised as doing the same job to be placed at the same levels in terms of the CORE prescripts.

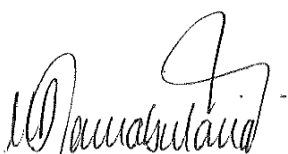
19 From the documents presented by the applicant it seems the respondent has failed to align the Drivers categories in terms of the CORE principles and have thus failed to implement provisions regarding the salary levels of the Drivers.

RULING

20 The respondent Department of Health: Northern Cape is ordered to place all the Drivers appointed at Kimberly Hospital at Salary level 6 with effect from the qualifying date in terms of the CORE principles and directives.

21 The above ruling must be complied with immediate effect

Done and dated at Pretoria on this the 14th Day of February 2011.



Lufuno Ramabulana

Panellist: PHSDSBC