



ARBITRATION AWARD

Commissioner: **Arne Sjolund**

Case No: **PSHS1242-19/20**

Date of award: **21 February 2021**

In the matter between:

NEHAWU OBO ELVIS MOENYANE

APPLICANT

and

DEPARTMENT OF HEALTH- NORTH WEST

RESPONDENT

DETAILS OF HEARING AND REPRESENTATION

1. This matter was set down for an arbitration hearing by the Public Health and Social Development Bargaining Council (“PHSDSBC”) and was heard on 12 February 2021. The hearing took place at the Klerksdorp Hospital, in Klerksdorp.
2. Mr. Elvis Moenyane (hereinafter referred to as “the applicant”) was represented by Mr. Thansanqa Mbeba (“Mbeba”) an official from NEHAWU. Department of Health- North West (hereinafter referred to as “the respondent”) was represented by Mr. Mzamo Adoons (“Adoons”) employed as Assistant Labour Relations Director by the respondent.

3. One bundle of documents was handed up by the applicant and utilized during the arbitration hearing. The proceedings were digitally recorded.

ISSUE TO BE DECIDED

4. This matter is brought in terms of section 24(2) of the Labour Relations Act (“the LRA”) and relates to the interpretation and application of PHSDSBC Resolution 1 of 2014 (hereinafter referred to as “the Resolution”).
5. It is the applicant’s case that the resolution should be interpreted that he (the applicant) is entitled to a 10% once off cash bonus as a result of obtaining an improved qualification. It is the respondent’s case that the applicant does not qualify for the 10% once off cash bonus as he had not obtained the minimum improved qualification as required by the Resolution.
6. It is common cause that the applicant has obtained a National Diploma in Business Management. It is also common cause that the Resolution requires that an employee employed in the category “*Emergency Services*” obtain a “*relevant Post-Graduate diploma*” in order to qualify for the 10% once off cash bonus.
7. I am tasked to consider whether the Resolution should be interpreted that the applicant is entitled to a 10% once off cash bonus.

BACKGROUND TO THE ISSUE

8. The applicant is employed by the respondent as an EMS Shift Leader earning a salary of R21 650-50 per month. On 01 August 2017, he obtained a National Diploma in Business Management.
9. The respondent’s mission is to render accessible, equitable and integrated quality health services.

SURVEY OF EVIDENCE AND ARGUMENT

10. It is not the purpose or the intention of this award to provide a detailed transcription of all the evidence that was placed before me even though all evidence and arguments were considered. I have summarised the evidence that I found to be the most relevant to decide in this dispute.

Applicant's case

11. The applicant testified that he was appointed as a Shift Leader during 2007 and the minimum requirements for the post was a Matric certificate. As he in the meantime obtained a National Diploma in Business Management, he believed that this was an improved qualification and that he should receive a 10% once off cash bonus in terms of the Resolution.

12. During cross-examination, the applicant was asked where his position was placed in terms of the Resolution, he testified that his position was not included in the Resolution. The applicant was also asked whether all positions within Government were included in the Resolution, he testified that they were. The applicant was also directed to the Resolutions and asked on what provision in the Resolution he relied on in claiming the 10% cash bonus. The applicant was unable to answer the question.

Respondent's case

13. The respondent did not lead call any witnesses.

ANALYSIS OF EVIDENCE AND HEADS OF ARGUMENT

14. It is common cause that the applicant is appointed as an EMS Shift Leader by the respondent. It is also common cause that the Resolution requires that the applicant must obtain a relevant Post-Graduate diploma, in order to qualify for the 10% once off cash bonus, which he has not obtained. Therefore, on the common cause issues the applicant does not qualify for a 10% once of cash bonus in terms of the Resolution.

15. Under the circumstances that applicant had failed to show that the Resolutions should be interpreted that he was entitled to a 10% once off cash bonus. Accordingly, I find as follows:

AWARD

16. The applicant, Mr. Elvis Moenyane has failed to show that he had obtained the necessary improved qualification in order to be paid an 10% once off cash bonus.

17. The matter is dismissed.



Arne Sjolund

Commissioner