



PHSDSBC

PUBLIC HEALTH AND SOCIAL DEVELOPMENT
SECTORAL BARGAINING COUNCIL

ARBITRATION AWARD

Commissioner: **JOSEPH MPHAPHULI**

Case No: **PSHS61-18/19**

Date of award: **22 September 2018**

In the matter between:

PSA obo Brandt, A

(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, situated in the Northern Cape. The hearing was conducted on 12 September 2018 and in terms of Section 191 of the Labour Relations Act 66/1995.
2. Mr Zalid Mohammed, PSA official represented the Applicant. The Respondent was represented by Mrs Dimakatso Mohlala, employee in the service of the Respondent.
3. Closing arguments were due on 19 September 2018.
4. The proceedings were digitally recorded.

ISSUE IN DISPUTE

5. I had to determine the accurate interpretation of Resolution 3/2007 of the PHSDSBC, with particular reference to translations.

BACKGROUND TO THE DISPUTE

6. The Applicant commenced employment on 01 May 2011. The Applicant was remunerated at R18.000.00 per month. The Applicant wished to be translated to primary health care professional and to be compensated at the applicable rate.

COMMON CAUSE ISSUES

7. The Applicant was employed as a professional nurse. The Applicant was in possession of a primary health advanced diploma. She obtained the qualification in December 2014 and was registered with the South African Nursing Council.
8. She served as primary health care professional in a primary health care clinic all be it that she was appointed as a general nurse.

SURVEY OF EVIDENCE

APPLICANT'S CASE

9. The Applicant was of the view that the Respondent's failure to translate her as a specialised functionary was in contravention of the provision of the Resolution, that is resolution 3/2007, PHSDSBC.
10. In as far as the Applicant was concerned the Respondent should have translated her from general nurse to primary health care practitioner effective 31 December 2014 at the applicable pay rate.
11. The Applicant was owed R 386 233. 82 for the period 01 January 2015 to 30 August 2018 and had to be translated to clinical nurse grade 1 effective 01 September 2018.
12. The Respondent did not enter any evidence save to argue against any basis for translation

ANALYSIS OF EVIDENCE AND ARGUMENT

13. Clause 3.2.5.3 of Resolution 3/2007 which was at the centre of the dispute reads:

“Translation of professional nurse (Registered nurses) to specialty 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,

14. 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.

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

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

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

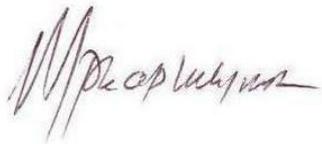
18. To qualify the Applicant would have to occupy a speciality post, i.e. primary health care practitioner post in addition to the qualification she already possesses.

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

AWARD

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

21. I dismiss the referred dispute.



Joseph Mphaphuli