



ARBITRATION AWARD

Case No: **PSHS782-20/21**

Commissioner: **Mr Anand Dorasamy**

Date of ruling: **28 March 2021**

In the matter between:

PSA OBO TERISHKA MAHARAJ

(Union/ Applicant)

and

DEPARTMENT OF HEALTH-KWAZULU NATAL

(Respondent)

DETAILS OF HEARING AND REPRESENTATION

1. Ms. Gillian Hassan of the Public Servants Association of South Africa (PSA) represented the applicant, Ms. Terishka Maharaj and Ms. Ntokozo Gumede represented the respondent, Department of Health- KwaZulu Natal.
2. The matter was scheduled for 10H00 on the 16 March 2021 at the Kwadabeka CHC boardroom in Kwadabeka.
3. This is a dispute in terms of section 24(2) [24(5)] of the Labour Relations Act, interpretation or application of a collective agreement, (Resolution 1 of 2014). The resolution in question is PHSDSBC Resolution 1 of 2014: Agreement on recognition of improved qualification in the sector.
4. After the evidence was completed the parties were to submit written closing arguments on or before the 23 March 2021. The parties made submissions on the 24 March 2021.

BACKGROUND

5. The applicant completed a Masters of Business Administration (MBA) and sought the payment of once off 10% Bonus of the applicable salary notch.
6. The respondent opposed the application and sought that the matter be dismissed.

ISSUES TO BE DECIDED

7. I am to determine whether the applicant is entitled to the payment of a once off cash bonus after completing the qualification.

SUMMARY OF EVIDENCE AND ARGUMENTS

APPLICANT'S CASE

TERISHKA MAHARAJH

8. The salient aspects of her evidence are recorded below.
9. She is employed at the Kwa Dabeka Community Health Centre (CHC) as a pharmacist and studied for an improved qualification. The respondent approved the qualification. She made an application to the relevant Human Resource Department to be submitted to the Head of Department. The application was granted.
10. If the qualification was not beneficial to the respondent and not related to the job title it would not have been approved. She completed the qualification of Master of Business Administration at Mancosa and made an application for the cash bonus in July 2019.
11. She received a response from the Human Resource department (page 29) where it is recorded:
"3. In terms of item 5.1 of the resolution it indicates that the qualification must be related to the employee's scope of work and enhances the employee's performance service.
4. The qualification obtained by Ms T Maharaj does not meet the requirement. In view of this the application for the abovementioned official has not been approved."
12. On page 14 of bundle A the following are recorded:

PHARMACY SERVICES	MINIMUM APPOINTMENT	IMPROVED QUALIFICATIO
	QUALIFICATION	
3. PHARMACIST	B Pharm or equivalent degree	Relevant Qualifications, Pos
	In Pharmacy	Graduate Diploma, BSC (Ho
		Masters and Doctoral Degree

		Equivalent Degree
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13. It fails to detail Master's Degree in Pharmacy. She was not funded by the State.
14. On pages 29-30 is her response to the letter declining the granting of the cash bonus. In July the cash bonus amounted to R 75 026.00. She lodged a grievance and no grievance hearing took place and then she contacted her union and the dispute was referred to the council.
15. Under cross-examination she stated as follows:
16. Her application to the Human Resource Department was approved on the basis that it is an improved qualification and enhanced her job description.
17. She funded her studies part-time and the course was done through correspondence. She attended workshops on the weekend.
18. Her application was approved because it was self-funded and did not affect her work or service delivery.
19. She believes that any Masters would qualify. Her qualification does not relate to the job as a pharmacist.
20. The respondent did not detail the reasons and Ms. Ngema was a panellist and requested the job description.

RESPONDENT'S CASE

NOMKHOSI NGEMA

21. The salient aspects of her testimony are recorded below.
22. She is employed by the Department of Health and is currently the Assistant Director Human Practices. Her duties include improved qualifications.
23. The application for improved qualifications is dealt with by a committee that sees if a person qualifies.
24. She knows the applicant who applied for the cash bonus in terms of Resolution 1 of 2014. The application was considered but not approved because she is working as a pharmacist and submitted a MBA and what she was doing did not relate to her job and was turned down. She did not qualify for payment.
25. Her application was approved by the Human Resources Department in the institution because of the funding and service delivery. If it would not affect the institution then it would be approved.

26. The institution only sent the application to pay. The internal application is considered by the Institution.
27. Under cross-examination she stated as follows:
28. She recognises the academic record and the job description and she did not qualify because she is a pharmacist. Her studies do not relate to her job.

CLOSING ARGUMENTS


29. The parties submitted written closing arguments that were considered when I made my determination.

ANALYSIS OF EVIDENCE AND ARGUMENT

30. The applicant obtained an MBA qualification and applied to the respondent to be paid a once of cash bonus in terms of Resolution 1 of 2014.
31. Her application to study was approved by the institution because she funded her studies and it did not affect the employer's service delivery.
32. Her application was considered by the committee tasked with considering such applications and it was declined because it was not in line with her duty/ job description as a pharmacist.
33. Clearly the MBA is an administrative qualification and not related to pharmacy. The Resolution details that pharmacists' further qualifications needed to be related to pharmacists.
34. Some of the qualifications that one could pursue after the initial qualification of B Pharm be M Pharm, or D Pharm. The MBA does not feature in the column recorded above.
35. As a consequence of the above I do not believe based on the evidence that the applicant qualifies for the once off cash bonus.

AWARD

36. The applicant's claim is dismissed.

A handwritten signature in black ink, reading "aS Dorasamy". The signature is written in a cursive style with a large, looping 'D' at the end.

Anand Dorasamy