



PHSDSBC

PUBLIC HEALTH AND SOCIAL DEVELOPMENT
SECTORAL BARGAINING COUNCIL

ARBITRATION AWARD

Panellist: JOSEPH MPHAPHULI

Case No: PSHS892-16/17

Date of Award: 16 April 2017

In the matter between:

PSA obo Meleti, CJ

(Union / Applicant)

and

Department of Health- North West

(Respondent)

DETAILS OF HEARING AND REPRESENTATION

1. The hearing was conducted on 23 March 2017 and at Bophelong Hospital. The proceedings were conducted in terms of Section 191 of the Labour Relations Act 66/1995.
2. Ms.Sefondi, employee in the services of the Respondent appeared for the Respondent. The Applicant was represented by Mrs. Z Graaff, official of an employee organisation, namely Public Staff Association.
3. Written arguments were filed on 07 April 2017.

ISSUE IN DISPUTE

4. The issue to be decided was whether the Respondent has acted in contravention of the Collective Agreement or not, this being Resolution 1 of 2014 of the Public Health and Social Development Sectoral Bargaining Council, if so, what remedy would be appropriate.
5. Parties filed heads of argument to support their respective positions.

BACKGROUND TO THE DISPUTE

6. The Applicant was ordinarily employed as a professional nurse. The Applicant ordinarily rendered services under the department of Health – North West and was posted at the Bophelong Psychiatric Hospital.
7. The Applicant's case was founded on the alleged violation of Resolution 1 of 2014. The Applicant sought to be paid a once off 10% cash bonus of his current rate following the acquisition of a University Diploma.

COMMON CAUSE FACTORS

8. The Applicant was in possession of an Advanced University Diploma in Child Psychiatric Nursing. The Applicant obtained the qualification post his appointment to the position.

APPLICANT'S SUBMISSION

9. The sum total of the Applicant Party's submission was that having obtained a University Diploma post his appointment, the Applicant met the requirement of Resolution 1 of 2014 to be paid a 10% cash bonus.
10. The Respondent's failure to effect payment was a violation of the Collective Agreement, so continued the argument.

RESPONDENT'S SUBMISSION

11. The Respondent argued that a 10% cash bonus was only payable for improved qualification as contemplated by Resolution 1 of 2014.
12. The recent Applicant's qualification was a basic requirement for appointment to the position occupied by the Applicant.
13. The qualification was not over and above the requirements for appointment in the position.

ANALYSIS OF SUBMISSIONS

14. Parties relied on the provision of the Resolution herein above referred to, to support their arguments.
15. There was no denying that the Applicant's qualification related to the Applicant's scope of work as contemplated by the Resolution, clause 4.1 thereof.
16. Section B of Annexure A of the Resolution provides that a professional nurse must have a minimum appointment qualification which is a Diploma/ Degree in Nursing.
17. The Resolution draws a distinction between minimum qualification required to be appointed to the position and an improved qualification.
18. Improved qualification implies an upgrade in qualification as in the acquisition of higher qualification.
19. Read against the Occupation Specific Dispensation it becomes crystal clear that the anticipated improved qualification refers in the case where the minimum requirement is a Diploma to a Bachelor's degree, Honors, Masters or Doctroctrate in the ascending order.
20. The argument that another Diploma is an improved qualification was misplaced and lacked substance. In short the argument was inimical to the provisions of the Resolution and could not be sustained.

AWARD

21. The case of the Applicant had no support in the Resolution.

22. I dismiss the application.



Joseph Mphaphuli

Signed

PHSDSBC Panelist