

## Victory to PSA member in Northern Cape

### Department of Employment and Labour: Dispute related to promotion

A PSA member lodged a grievance after the Department of Employment and Labour in the Northern Cape failed to shortlist him. The member met the minimum requirements and was also suitably qualified for the post in question. The PSA declared an unfair labour practice relating to promotion. The employer erroneously argued that the member's qualifications were not relevant to the advertised post.

The PSA argued that based on the Recruitment and Selection Policy of the employer and the *Employment Equity Act (EEA)*, section 20, suitably qualified individuals applying for a position cannot be ignored for posts advertised. The PSA further argued that the minimum requirements alone cannot be the yard stick as the employer must be driven by its employment equity targets as well. The employer must act fairly towards all employees as case law also dictates that fairness must apply relating to promotion issues.

The PSA relied on section 20(3) of the *EEA*, which provides that a person may be suitably qualified for a post because of any one-off, or any combination of that person's formal qualifications, prior learning, relevant experience, or capacity to acquire, within a reasonable time, the ability to do the job.

The PSA obtained a favourable award based on the above arguments. The appointment of the incumbent was declared null and void, and the post must be re-advertised.

Reuben Maleka  
GENERAL MANAGER