

Victory for PSA members in the Western Cape

Department of Infrastructure

A shop steward was charged for improper/disgraceful behaviour regarding the way staff members were conducting themselves towards management. The disciplinary hearing continued over a period of nearly three years since many employees were charged with the same offence, which also included three unions. The shop steward was found not guilty.

Department of Correctional Services

- A member was transferred as a precautionary measure pending an investigation against him. After approximately 18 months, the precautionary transfer was changed to permanent. The matter was referred for arbitration after the conciliation did not yield positive results. The Commissioner found that the action by the DCS was irregular and ordered the DCS to comply with its own disciplinary code and the member to return to his place of work.
- A member was charged for sexual harassment. The PSA represented the member, and he was acquitted on the charge, as the DCS could not lead evidence that the member was indeed guilty.
- A member was charged for assault and improper behaviour. The PSA argued about time frames and the fact that the DCS did not inform parties of any reasons for the delay in taking disciplinary action after the investigation was finalised. The Chairperson dismissed all charges against the member owing to time frame and the DCS not complying with Resolution 1/2006.
- Three members were charged for assault of an offender. The DCS indicated that the complainant in the case was not available for the hearing and that it would want the case to be postponed. The PSA requested via the Chairperson for proof of the efforts made by the DCS from the date of the previous postponement to date, to trace/ensure the availability of the complainant and opposed postponement if the DCS could not submit proof. The DCS could not submit any proof of any efforts made to ensure the presence of the complainant to the Chairperson. The PSA requested that the charges against the members be dismissed. The Chairperson ruled that the DCS did not comply with Resolution 1/2006 in that it did not ensure availability of its witnesses, including the complainant. The charges against the members were dismissed.

Department of Social Development

A member charged for not adhering to his supervisor's instruction. He had received a written warning. An appeal was lodged challenging the unfairness of the written warning of which the outcome was in the member's favour and such that he was found not guilty of the charge.

South African Revenue Service

A member was assisted with an application for early retirement, stemming from an incapacity hearing. The application was approved, which was what the member wanted instead of the being discharged based on incapacity.

Department of Health and Wellness

- A member was charged with providing false information. He was dismissed and an appeal was lodged. The outcome of appeal was a final written warning and one week's suspension without pay.
- A member lodged a formal grievance regarding ongoing victimisation and insolent behaviour by a colleague. After an investigating officer was assigned to the matter, the member who lodged the grievance was served an *audi alterum partem* letter, requesting reasons as to why she should not be disciplined. She submitted her response and was issued with a final written warning. The PSA appealed the sanction and at the appeal hearing the sanction was reduced to a verbal warning.

South African Social Security Agency (SASSA)

Seven members were in dispute with SASSA relating to an unfair labour practice: benefits (upgrading), in which SASSA had failed to remunerate Assistant Managers (SL9) and Office Managers (SL11) on SL10 an SL12 at the time of their appointments. The members' claim was based on clause 18.1 of PSCBC Resolution 1/2012, read in conjunction with SASSA's 2005 job grading results. The Commissioner issued an award of *solatium* (compensation) in favour of seven members whose posts were listed and graded in 2005. The award was referred to the Labour Court for review by SASSA for it to be set aside. The PSA lodged a cross-review application, requesting that the Court rules for the seven qualifying members to receive a full retrospective upgrading and not only compensation. The Court ruled that the Commissioner made a reasonable decision and both applications were dismissed. The ruling issued by the Commissioner was implemented.

Technical and Vocational Education and Training (TVET)

A member was charged with gross negligence, alternatively dereliction of duty when material worth some R123 000 was reported missing. The PSA represented the member and during the pre-hearing engaged the employer and indicated that there is no substance for the charges against the member. All charges against the member were withdrawn a few days later.

Department of Home Affairs

A member was charged with gross negligence and dishonesty. The Department's mandate was dismissal based on the seriousness of the charges. The PSA managed to save the member's job in that he received a sanction short of dismissal, which was three months' suspension without pay.

Reuben Maleka
GENERAL MANAGER