



FOR PSA MEMBERS: DEPARTMENT OF CORRECTIONAL SERVICES (DCS)

27-01-2025

## Update: DCS employees re-employed on incorrect salary level

### **PSA vs DCS: Jurisdictional Points and *Res Judicata* (final judgment that is no longer subject to appeal) Argument**

In a recent arbitration case between the PSA and the Department of Correctional Services (DCS), the employer raised several jurisdictional points, culminating in an argument of *res judicata*. The employer contended that the Council did not have jurisdiction to arbitrate the matter, asserting that the issue had already been adjudicated and thus could not be revisited. However, the arbitrator ruled that the matter was not *res judicata* and that the Council did indeed have jurisdiction to arbitrate the case.

#### **Background of case**

The dispute arose when the PSA, representing the Union's members, brought a dispute against the DCS. The specifics of the dispute are not detailed here, but it led to a series of jurisdictional challenges by the employer.

#### **Jurisdictional points raised**

- **Initial Jurisdictional Challenge:** The DCS initially contended that the General Public Service Sectoral Bargaining Council (GPSSBC) did not have jurisdiction, arguing that the matter fell under the purview of the settlement agreement already agreed upon in 2019. This point was raised after the pre-arbitration meeting, which led to a delay in proceedings.
- **Subsequent Jurisdictional Challenges:** The employer continued to raise additional jurisdictional points, each aiming to establish that the GPSSBC was not the appropriate forum for the arbitration. These challenges were systematically addressed and dismissed by the arbitrator who maintained that the GPSSBC had jurisdiction.
- ***Res Judicata* Argument:** The final jurisdictional point raised by the DCS was the argument of *res judicata*. The employer claimed that the issue had already been decided in a previous arbitration or court proceeding, and therefore, the Council did not have the authority to arbitrate the matter again. *Res judicata* is a legal doctrine that prevents the re-litigation of issues that have already been adjudicated by a competent tribunal.

### **Arbitrator's ruling**

The arbitrator carefully considered the *res judicata* argument presented by the DCS. After reviewing the facts and the legal principles involved, the arbitrator concluded that the matter was not *res judicata*. The arbitrator found that the previous proceedings cited by the DCS did not conclusively adjudicate the specific issues at hand in the current dispute. As a result, the arbitrator ruled that the PSCBC had jurisdiction to arbitrate the matter.

### **Implications of ruling**

The arbitrator's decision to reject the *res judicata* argument and affirm the council's jurisdiction has significant implications for parties involved and for future arbitration cases. It underscores the importance of thoroughly examining the specifics of each case before applying the doctrine of *res judicata*. Additionally, it highlights the need for employers to carefully consider the jurisdictional basis of their arguments when challenging the authority of an arbitration council.

The PSA vs DCS case serves as a critical reminder of the complexities involved in jurisdictional disputes and the application of *res judicata* in arbitration proceedings. The arbitrator's ruling reinforces the principle that each case must be evaluated on its own merits, ensuring that justice is served through a fair and thorough arbitration process.

Employees who want to join the PSA can visit the PSA's website, send an email to [ask@psa.co.za](mailto:ask@psa.co.za), or contact PSA Provincial Offices Organising/Marketing Officers:

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