



ARBITRATION AWARD

Panellist/s: M.I RAMALATSO
Case No.: GPBC 753/2019
Date of Award: 06 OCTOBER 2020

In the ARBITRATION between:

PSA obo B MAPHUPHA and 1 OTHER

(Union / Applicant)

and

DEPARTMENT OF MILITARY VETERANS

(Respondent)

Union/Applicant's representative: Mr Martins Mashaba

Union/Applicant's address:

Telephone:

Telefax:

Respondent's representative: Adv P.C.Pio

Respondent's address:

Telephone: _____
Telefax: _____

ARBITRATION AWARD ito SECTION 198(Fix term contract)

DETAILS OF HEARING AND REPRESENTATION

- [1] The arbitration hearing was held before me on the 09th September 2020, the applicants were represented by Mr Mashaba from PSA and the respondent by Adv PC Pio. The arbitration was held via virtual hearing.
- [2] The two applicants Mpho Zawadi Makapane and Babuyile Maphupha referred their matter before the Council for section 198B (fix term contract).
- [3] The proceedings was conducted virtually and electronically recorded.
- [4] Both applicants testified and the respondent indicated that he was frustrated with his clients who does not cooperate with him, but however he was ready to proceed with the matter.

ISSUE TO BE DETERMINED

- [5] I am required to determine whether the contract of the two applicants was supposed to be extended upon the ending of the previous fixed term contract or not.

BACKGROUND TO THE ISSUE

- [6] The applicants were appointed by the responded on fix term contract which was renewed three to four times before the respondent decided not to renew. That the total number of the employees who were appointed on fix term contract were thirteen and only the three of them were not extended. The respondent on the other side indicated that he does not have anything to say, and did not lead any evidence.

SURVEY OF EVIDENCE AND ARGUMENTS

FOR THE APPLICANTS

Mpho Zawadi Makapane :-

Evidence-in-Chief

- [7] That his contract was terminated for no reason that before it was extended four times. That 2015 it was renewed for six months, 2016 it was then renewed for three months. That they were fourteen contract workers only the three of them their contract was not extended.
- [8] That his salary was R136 000.00 per annum as a cleaner. And that he started working 2015 and he was terminated end of April 2019.
- [9] On cross examination he was asked if he expected his contract to be extended by one year and his respond was he expected his contract to be renewed and he is expecting to be appointed permanently.

Babuyile Maphupha

- [10] He testified that his contract was terminated, and that before it was extended four times.
- [11] That he was employed on fix term contract in 2015 for three months, 2016 it was then extended to six months, 2017 it was extended to one year and 2018 also to one year.
- [12] That the total number of employees with the same contract were thirteen and only the three of them were not renewed, and the others were renewed.
- [13] That he was expecting the contract to be renewed and now he needs permanent appointment.
- [14] On cross examination he was asked if the others were extended by one year he said he does not know for how long but were extended.

That was the case for the applicants, the respondent closed his case without calling any witness. The heads were to be submitted by the parties.

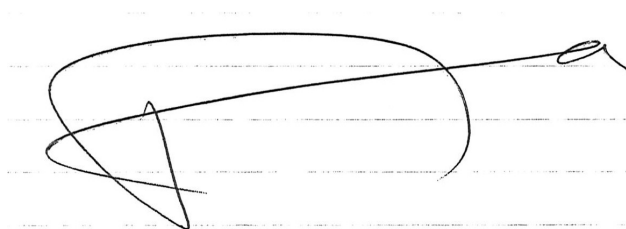
ANALYSIS OF EVEDENCE AND ARGUMENTS

- [15] Only the applicants submitted their heads the respondent did not submit or save to indicate that at the time when I was concluding this matter I had no heads from the respondent.
- [16] In determining this case I am obligated to assess the evidence before me, save to indicate that the only evidence is that of the applicants, the respondent let no evidence and had no intention of doing so in the future. The evidence of the applicants were not challenged by the respondent during the cross examination.
- [17] The applicants evidence is that the were employed by the respondent on fixed term contract, which was extended three to four times, further that the total number of employees under the same contract were thirteen. That ten of them the contract was extended and only the three of them it was not. It is also save to indicate at this stage that the applicants before me are two and not three.
- [18] The evidence of the applicants remained unchallenged on the above aspect. The question remained what was the reasoning behind not renewing their contract. It is unfortunate that the respondent choose not to participate on giving evidence.
- [19] I am therefore satisfied with the evidence of the applicants.

I therefore make the following ruling.

AWARD

- [20] I find that the respondent failure to renew the contract was unfair.
- [21] That the contract of the applicants be renewed under the same terms and condition as the other fixed term contract workers.
- [22] The renewal of the contract must be retrospective
- [23] No costs order.

A handwritten signature in black ink, consisting of a large, loopy 'S' shape followed by a horizontal line and a small flourish at the end.

(SGD) _____

MATSOBANE ISAAC RAMALATSO
GPSSBC -PANELLIST

