

IN THE SAFETY AND SECURITY SECTORAL BARGAINING COUNCIL HELD  
AT PORT ELIZABETH

CASE NO: PSSS 766 EC

In the matter of

BARRY H. WADE

APPLICANT

and

SOUTH AFRICAN POLICE SERVICE

RESPONDENT

RULING IN RESPECT OF AN EXCEPTION

This matter, which relates to alleged unfair labour practice, was set down for hearing (conciliation and arbitration) on the 8 November 2001 in Port Elizabeth.

PARTIES AND REPRESENTATION

The applicant Barry H. Wade appeared in person. The respondent was represented by Mrs Samantha Philander.

We commenced with the conciliation process.

The respondent raised three points in limine, as follows:-

- (i) That the Safety & Security Sectoral Bargaining Council (hereinafter referred to as "SSSBC") has no jurisdiction to hear the matter as the dispute arose in July 1998, prior to SSSBC date of operation, being August 1999.
- (ii) That in any event, the applicant had failed to follow the internal grievance procedures before referring the matter to the SSSBC. He had requested a stage four (4) meeting without formally registering the grievance.
- (iii) That the applicant was no longer in the employ of the respondent as he has been on pension having, been declared medically unfit to work since 28 February 1999.

## 2.

In so far as the first point in limine is concerned, it was established that the matter was enrolled by the SSSBC and found to be within its jurisdiction as applicant had applied for a stage four (4) meeting on 10 October 2000. 10 October 2000 was deemed to be the effective date for purposes of founding jurisdiction.

In regard to the remaining issues, the applicant admitted that he never registered a grievance internally but only requested a meeting during October 2000.

He explained that he had lodged an application to be promoted from 1st Leg to 2nd Leg Inspector during May 1997. Such an application was rejected after evaluation by the relevant officers. He lodged an appeal but never received a reply.

He was advised by the officer at Cambridge Police Station that it would not be necessary to lodge the grievance forms as an enquiry had already been lodged in regard to the outcome of his appeal.

The applicant in the interim was declared medically unfit and ceased working on the 28 February 1999. He lodged a second application for his promotion on 11 May 1999. He admitted that he only applied for a stage four (4) meeting during October 2000.

No response was forthcoming from the South African Police Services and he eventually referred the matter to the SSSBC.

### RULING

I made a ruling striking the matter of the roll in that I had no jurisdiction to hear the matter on the following grounds:-

- (a) Although the matter had been properly enrolled by the Bargaining Council, which accepted the applicant's word that he had followed the internal procedures stated in paragraph 6 of the referral form, it is however clear that such a statement is incorrect.

The applicant on his own admission stated that he did not file a formal grievance. Applicant applied for a stage four (4) meeting, without properly registering the said dispute.

**3.**

It is clear from the foregoing that the matter is not ripe for this forum as the parties and in particular the applicant never utilised the internal procedures.

(b) The applicant left the employ of the Respondent on the 28 February 1999 and is now receiving pension.

Only a member who is in active service of the South African Police Services can lodge a dispute in terms of the Police Service Act,

Applicant is accordingly, not covered in the definition of a member in terms of section 1 of the said Act. He is no longer an employee or member as contemplated.

In the premises I have no jurisdiction to hear this matter. The matter is accordingly struck off the roll.

DATED at PORT ELIZABETH on this 9<sup>th</sup> day of NOVEMBER 2001.

NK MHLANTLA  
CONCILIATOR