

**ARBITRATION IN THE SAFETY AND SECURITY SECTORIAL
BARGAINING COUNCIL HELD AT PORT ELIZABETH**

ARBITRATION

Date: 20 April 2005

Case no. PSSS 900

In the matter between:

A. TOM

and

SOUTH AFRICAN POLICE SERVICE

Arbitrator: L. Vermaak

BACKGROUND

This arbitration was held on the 23 August 2004 at the respondent's Mount Road Police Station. S. Filander represented the respondent. M.W. Tombe of POPCRU represented the applicant. The applicant referred an unfair labour practice regarding promotion to be decided.

At the arbitration the respondent raised a point *in limine*. The final argument in respect of the point *in limine* was received on the 29th September 2004.

QUESTION TO BE DECIDED

The point *in limine* raised was that the matter was not properly before the bargaining council as the dispute was resolved. The question that I need to decide is whether or not I have jurisdiction to deal with this matter.

EVIDENCE

The historical background to this dispute is that the matter was set down before Commissioner L. Bono. On the 29th January 2002 Commissioner Bono submitted an outcome report to the bargaining council in terms of which the outcome was as follows:

"Both parties agreed that a panel was to be appointed within 21 days from today to re-evaluate the employee's promotion. The re-evaluation will be done only on the candidates that applied for the position at the time"

The background to this dispute was that during 2001, the applicant applied to be promoted to post no. 1637. If the applicant were appointed he would have been promoted from the rank of inspector to the rank of captain.

Only one candidate Inspector A.B. Kock was short listed to be considered for appointment to the post in question. Inspector Kock was duly appointed in the post. After the appointment of Inspector Kock the respondent realized that Inspector Kock did not meet the minimum requirements to be appointed to post 167 and her promotion was withdrawn.

The applicant then lodged a grievance and followed the internal procedures resulting in the arbitration in front of Commissioner Bono referred to above.

The panel that considered the regional application of A.B. Kock was reconvened as instructed by Commissioner Bono and the applicant was placed as number 3 on the shortlist. The applicant is aggrieved with the above recommendation.

SUMMARY OF ARGUMENT

It is argued on behalf of the applicant that the original dispute was a promotion dispute and not a dispute regarding an interview panel that had to be reconvened. It was also indicated that the outcome report of Mr Bono is clear in respect of the point that the case must be rescheduled. In this regard the applicant party relied on an outcome report that was submitted by Commissioner Bono on the 8th July 2003 wherein he recommends that the matter be reconvened.

The respondent argued that the original dispute referred under case no. PSSS 900 was resolved as the interview panel was reconvened and considered the applicant's application, as instructed by Commissioner Bono.

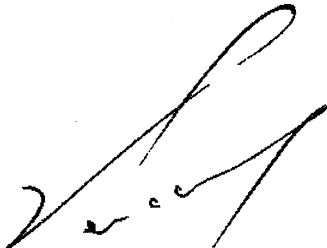
ANALYSIS OF EVIDENCE AND ARGUMENT

I agree with the respondent's submissions that the original dispute was resolved as the parties have agreed to the process as set out in Commissioner Bono's report. The arbitrator made a ruling that the original interview panel be reconvened for the sole purpose of considering the applicant's applications with other members that applied for the post. This was done and the applicant was not successful. This dealt with the original dispute referred under case number PSSS 900. The applicant is however not without remedy. The applicant can declare a dispute regarding the decision of the reconvened panel.

AWARD

The SSSBC has not got the necessary jurisdiction to arbitrate this matter as the dispute was resolved by agreement.

1. No order is made as to costs.

A handwritten signature in black ink, appearing to read 'Louis Vermaak', written in a cursive style.

LOUIS VERMAAK