

**SUMMARY OF ARBITRATION AT CCMA  
HELD ON 3 DECEMBER 2007**

Conciliation to this case was heard on 17 June 2007, no resolution could be found and the case was referred to arbitration.

Present:

Commissioner

Adv. Ben van der Walt - spokesman

Sharon Peach - SAPTU Chair

Suscilia Maree - witness

Anton Prinsloo - witness

Ishmael - representative of Nehawu and witness

Disebo Monama - spokesperson for SABS

Cathy Mofokeng - assistant to Ms Monama

Disebo represented the SABS at this case as Cathy has only been employed since 1 October 2007 and does not fully understand the dispute.

Adv Ben van der Walt was elected as spokesman for SAPTU to present the case which was conducted in an extremely competent manner.

SABS had no mandate from its stakeholders and a short caucus was held whilst this was obtained. SABS called no witnesses.

It was determined that the tool of trade vehicle allowance is under dispute in as much as the allowance forms parts of the TCTC (salary) which in turns is connected to Conditions of Service. When the change of Conditions of Service (COS) was implemented the allowance was no longer part of the salary, severely affecting employees of which there are about 500 in total. SAPTU further stated that these changes were unilateral.

#### **OPENING STATEMENT - SAPTU**

Under the Standards Act (29 of 1993) Section 11, subsection 11.1(b) it is stated *'the SABS shall pay to its employees such remuneration, allowances, subsidies and other benefits as the council may determine in accordance with a system approved by the Minister (the dti) with concurrence of the Minister of State Expenditure, as such system is amended from time to time'*.

11(2) *'The Council may from time to time, on such conditions and against such security as it may deem fit- (d) establish motor vehicle schemes for employees of the SABS'*.

Tool of Trade Allowances granted by SABS is paid to an employee where the requirements of the job are such that the individual needs to have a vehicle as a 'tool of trade' to enable him/her to perform his/her duties in line with the relevant job activities. This is defined in CSP 605.

In COS dated 1/08/1996, as approved by Council, Section 7 Service Benefits, subsection 7.1 Remuneration, subsection (b) Fringe benefits comprising a combination of, among others, the elements mentioned below, and dependant on the post level to which it is applicable

- \* Contribution to provision of pension
- \* Housing benefit
- \* Allowances as approved
- \* Vehicle benefit.

In appointment letters, employees may structure their salary remuneration accordingly.

In CSP 605, under Section 5, subsections 5.2 and 5.2 are applicable, the tool of trade vehicle allowance and cost to company remuneration respectively. Changing the COS has an adverse effect on just about everything.

In all CSP documents the SABS refers to consultations and negotiations, and whilst SAPTU acknowledges that consultation might have taken place, no negotiations took place. It was further determined that SAPTU was never given a mandate by its members to proceed with the implementation of this process. A petition was received from KZN disagreeing with the process and implementation thereof. SAPTU's Recognition Agreement refers to consultation and negotiation in matters referring to COS, remuneration, substantive matters, etc, influencing employer/employee relationships.

SAPTU requested that the process is halted, the original system reinstated and to start fresh negotiations.

#### OPENING STATEMENT - SABS

It was stated that PL 8 - 18 tool of trade is not included in TCTC whilst PL 1 - 6 vehicle allowance is included in TCTC. Where packages have to be structured, managers are still able to do this.

Employees complained about salary disparities and when moving position where a vehicle was not required, this allowance was not removed from their TCTC. The tool of trade as it is as present cannot work, a task team was formed and employees chosen to participate. It was further stated that the unions were to get mandates from their members.

SABS further stated that the vehicle allowance was not in dispute but rather the tool of trade vehicle allowance. It is further stated that at the first task team meeting the unions knew that the decision taken by Exco was final. Representatives were chosen by management, unions, regions and clusters and the unions were supposed to get a mandate. If no mandate was obtained that was not managements fault or problem.

Prior to 2005 each company within the SABS had its own COS which was later consolidated. According to SABS a dispute consultation took place and later full consultation at which time Council signed the COS off as valid as well as looking at and signing off the Remuneration policy.

SABS states that it consulted in good faith with communications to the regions and that Option B is the best for employees. Management stands by its claim for full consultation.

#### WITNESS - SM MAREE

Suscilia took the prescribed oath and stated that at the time she was Chairperson of SAPTU and is now a manager at the Bloemfontein branch of the SABS.

At a Management Union Consultation Forum (MUCF) meeting dated 20/5/2007, the unions were informed

by management of a decision by Exco re the tool of trade vehicle allowance, wherein they were informed of a remuneration subtraction from employees. A verbal dispute was immediately called. When the task team was formed the unions stated that there would be no rubber stamping of decisions made. A joint meeting was called on 8/7/2007 and members requested the unions to declare dispute in writing. On 17/5/2007 the new COS 611 was published as valid but the document was not the same as the draft document circulated to the unions for comment. Comments and changes were disregarded and not included in the new document.

This decision by Exco would result in packages being affected by R30 000-00 pa. and would have an impact on pension by about R2250-00 pa per employee.

The task team formed was to look at how to implement the system. It was by no means a negotiation meeting or a union meeting and that no mandate was required according to Mr J Stanbury, and that implementation of the process would proceed immediately. Under these circumstances no consultation occurred as the task teams sole purpose was to implement the process.

CSP 605 allows for purchase, insurance, maintenance, installments, license, running costs, etc, and that the price p/km only allowed for petrol used. A reduction of R30 000-00 cannot cover all expenses. Option A allows for R20 000-00 and cannot cover all costs of a vehicle whilst Option B does not cover any costs. A Newsflash made it clear that the task team was not union related. Unions stated on more than one occasion that they had no mandate from their members and were not in a position to say anything or to vote. John Stanbury then stated that the meeting was not a union or negotiation meeting and was not interested in mandates. Management clearly indicated a decision had been reached and that the task team was formed to implement the process.

#### WITNESS - ISHMAEL - INSPECTOR

The unions received no mandate from their members. The decision had already been taken. The task team was formed on 13/7/2007. Management clearly stated that the proceedings were not negotiation or consulting but implementing the process and options. No minutes of the voting meeting were received (the last meeting).

He stated that the members indicated that they would be worse off - eg reduction in credit worthiness, affects overall state of living, pension fund would be less, financial obligations would be harder to meet, it would effect bonds/mortgages, etc. Ishmael further stated that the employer is not giving anything but only taking away. He then produced personal evidence of this statement.

It was determined that the task team was not legitimate as no mandates were obtained by the unions therefore the implementation could not proceed. He further stated, as did the other witnesses, that he was present in his personal capacity as per managements invitation.

#### WITNESS - ANTON PRINSLOO - TRADE METROLOGIST

Anton stated that at the 13/6/2007 task team meeting, chaired by John Stanbury, that John Standbury clearly stated that the meeting was a 'how to or how not to' implement the system. Antons letter of appointment was read to John Stanbury who replied that he did not care and would meet Anton in court about it. Anton stated that his salary was structured to meet his requirements and that the vehicle allowance was not an extra on his salary. He wanted to know what would happen to his salary if he was on leave or sick leave or extended sick leave due to an accident. He stated that he would not be able to pay for his vehicle and that he was also losing pension as a result of R30 000-00 loss to his TCTC. There was no

answer from the SABS representative to this query. Anton further stated that his remuneration package as given to him in a letter by HR includes a vehicle allowance.

The SABS then stated that Anton was possibly only thinking of himself at this stage and not of others with regard to credit worthiness, etc, to which Anton replied that Regulatory was no longer a factor and that he was only thinking of other employees who would suffer by this decision.

Anton also stated, as did the previous two witnesses, that the task team meeting was not to discuss the tool of trade but to find ways to implement the process as the decision had already been made.

Both parties - Unions and SABS then entered their closing statements. The Commissioner made mention of a decision and award being given, possibly on Thursday of this week.

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I know how anxious everyone must be at this time but please be assured I am not in a position to answer any further queries regarding tool of trade. We will now have to wait for the Commissioners decision. As soon as this decision and award is forwarded to me, I will notify all members via e-mail. I request that you all be patient, as I must be as well. I will keep you informed.

With thanks

Sharon  
SAPTU - Chairperson