

AT THE SOUTH AFRICAN ROAD PASSENGER BARGAINING COUNCIL

IN THE DISPUTE

BETWEEN

SATAWU OBO KOK AND 15 OTHERS

APPLICANT

AND

PUTCO LIMITED

RESPONDENT

RULING

CASE NUMBER:

RPNT811

DATE DOCUMENT RECEIVED:

01 June 2011

DATE RULING SUBMITTED:

14 June 2011

NAME OF COUNCIL COMMISSIONER:

Seele Mokwena

South African Road Passenger Bargaining Council

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1. DETAILS OF APPLICATION AND PROCESS

The applicants referred an unfair dismissal dispute to the Council in terms of section 191 (5) of the Labour Relations Act 66 of 1995. The respondent was represented by its Industrial Relations Manager, Vuyo Ondala. The dismissed employees were represented by Adelaide Moloi of SATAWU and Patrick Masupha of Karabo Labour Organization.

2. ISSUE TO BE DECIDED

I had to determine whether Karabo Labour Organization had the *locus standi* to represent its members in this forum and the appropriateness of the two unions representing their members in one arbitration process.

3. BACKGROUND TO THE ISSUE

SATAWU referred two separate matters on behalf of some of the dismissed employees which were allocated two separate case reference numbers. The other employees referred separate matters which brought the number of cases in respect of this dispute to four. A consolidation ruling for all four cases was made and it was at the arbitration process that the preliminary issues that led to this ruling were raised.

4. SURVEY OF EVIDENCE AND ARGUMENT

The respondent submitted that Karabo Labour Organization should not be allowed because the union was neither a party to the Council nor made contributions to the Council levies. The respondent further argued that the provisions of the Council's constitution, in particular clause 9, prohibited the union from representing the dismissed employees in this forum because at the time of the dispute, the dismissed employees were members of SATAWU. The dispute was referred to the Council by the dismissed employees and not the union whereas the consolidation application was brought by SATAWU.

Karabo submitted that it was registered as a trade union in terms of the Labour Relations Act and that among the dismissed employees were their members who worked for the respondent as drivers. Thus it had the right to represent its members in this forum. The dismissed employees had the right to affiliate to a union of their choice and accordingly, the union's appearance in this forum was in accordance with the applicable legislation.

SATAWU argued that all the dismissed employees were its members. They applied for the consolidation of the different referrals and did not know Karabo, either in the past or present. Those dismissed employees who claimed to be members of Karabo must make an application to SATAWU so that their cases can be separated. In the event it is found that Karabo may represent those employees, SATAWU preferred that their matter be heard in a separate process excluding Karabo and its members.



5. ANALYSIS OF EVIDENCE AND ARGUMENT

Karabo submitted a certificate of registration with the Registrar of Labour Relations to prove that it was a properly registered trade union. In addition to this, Karabo submitted proof of membership of those employees it claimed to be their members. Relevant to this dispute, Clause 9 of the Council's constitution provides for representation before the Council by a member, official or office bearer of a registered trade union that a party was a member at the time of the dispute. The employees were dismissed on 18 November 2010, some of whom were dismissed on date before 18 November 2010 even though the parties could not confirm that earlier date. However, Karabo produced proof of membership that indicated that the employees it wanted to represent were its members at the time of the dismissal. In view of this, I am satisfied that Karabo met the requirements to represent some of the dismissed employees in this forum.

There is no basis in law for the employees who belong to Karabo to apply to SATAWU to have their disputes separated from that of its members. SATAWU failed to show good cause for the Council to separate the matter in accordance with the dismissed employees' union affiliation. Although this may be a logistical inconvenience to both the Council and the respondent, the latter appeared to favour this arrangement. One can only conclude that SATAWU's request had nothing to do with the dispute but something to do with its relation with Karabo. It would therefore not be in the interest of the expeditious resolution of the dispute to force the parties to a single process which might prejudice the dismissed employees' right to finality of their dispute with the respondent.

6. RULING

Karabo Labour Organization meets the requirements to represent its members and is therefore entitled to represent its members in this forum.

The Council must separate the cases in accordance with the dismissed employees' union affiliation and set them down for hearing. (Karabo represents Godfrey Mphalali & 7 Others whereas SATAWU represent P.S Ntjana & 7 Others)



COUNCIL COMMISSIONER: SEELE MOKWENA

