

IN THE ESSENTIAL SERVICES COMMITTEE

(Held at Johannesburg)

ES33

In the matter between:

PSA obo Members

1st Applicant

NEHAWU obo Members

2nd Applicant

and

South African Social Security Agency

Respondent

Determination

1. DETAILS OF THE HEARING AND REPRESENTATION

1.1 This matter was heard initially on 1 December 2015 and concluded on 9 February 2016, with parties having to file written closing arguments.

1.2 Ms. N Malinga appeared for PSA, Mr. C Marule for NEHAWU and Mr. L Yekwa for SASSA. Mr. b Khuzwayo also attended for HOSPRESA as an interested party.

2. BACKGROUND

2.1 The Essential Services Committee (“the ESC”), by notice in Government Gazette 18276 (Notice R1216), dated 12 September 1997, designated the payment of social pensions one month after they fall due.

2.2 PSA, the 1st Applicant, applied for the variation or cancelation of the above designation in terms of Section 71(9) of the Labour Relations Act. The ESC convened a meeting on 1 December 2015 to discuss the process and clarify certain issues in the PSA referral. The ESC extended the invitation to all unions in the sector and also the Department of Social Development as an interested party. NEHAWU later applied to be joined and actively participated in the hearing.

2.3 Upon discussing the matter, the Applicant narrowed the issue in dispute to whether the Grant Administration (Salary Level 5) and Senior Grant Administration (Salary Level 7) are included in the 12 September 1997, designation on the payment of social pensions.

2.4 The matter then changed from a Section 71(9) dispute to a Section 73 (1)(b) dispute.

3. SURVEY OF SUBMISSIONS

1st Applicant's case

3.1 It is the PSA's case that the two categories (i.e. that of Grant Administrator level 5 and Senior Grant Administrator level 7) are not covered in the current determination of 1997.

3.2 The current determination was issued prior to the promulgation of Social Assistance Act, No 13 of 2004, and the establishment of the Agency by the South African Social Security Service (SASSA) Act no 9 of 2004. At the time the determination was issued, and prior to April 2006, the Department of Social Development performed the payment of social pensions.

3.3 The PSA bases its contention on the fact that the employees in question are not involved in the payment of social pensions, which function has through the tender process been outsourced to an outside service provider. (Cash Payment Services (CPS) currently render the service of the payment of social pensions and support related services.)

3.4 PSA submitted that the duties and function of the categories of employees in question is that of interviewing clients; taking down new applications; review of life certificates for level 5; and verifying/approving new applications in the case of employees employed on level 7. Further that, these duties and responsibilities do not require specialized training as the system of social pension administration, whether manually or electronically, is in a standardized format.

3.5 Lastly that the involvement of the said Grant Administrators and Senior Grant Administrators is limited to receiving applications and they have no involvement in the payment of the social grants.

2nd Applicant's case

3.6 The 2nd Applicant argued that SASSA uses a four-step model in its grant administration process that is performed mainly by Grant Administrators (level 5) and Senior Grant Administrators (level 7) workers. The process is as follows:

- 3.6.1 Customer Engagement (When a customer comes in to a SASSA office they are informed of grant types then directed to the correct queue. This function is done by a customer care official that is a grant administrator.
- 3.6.2 The next step is to screen the client where they are told what to bring when applying for a grant and registered on the SOCPEN (Social Pension System) then given all the relevant documentation. Function performed by grant administrators.
- 3.6.3 The following step is the rescreening of the client to check if they have the correct documentation to take down the application. Then when all the documents are there, an application is taken down; this function is also called attesting. A Grant Administrator performs this Function.
- 3.6.4 The client then goes to have the file quality assured by the Grant Administrator who then passes the file on to the system verifier who is a Senior Grant Administrator to verify the application on the system after performing the final checking of the completeness of the application, then after that, verifies the application and approves the grant if the applicant meets the qualifying criteria.

3.7 After the grant has been approved by SASSA (level 7), Cash Payment Master (CPS) then does the payment logistical preparation and the payment itself. The process is as follows:

- 3.7.1 CPS takes the beneficiary's biometric fingerprints and the beneficiary is enrolled into their enrolment system and they are given master cards with microchips and pin code to receive their grants in.
- 3.7.2 On the 1st of every month CPS loads beneficiaries grants onto their payment system which then beneficiaries are able to access their grants with the cards and the beneficiaries can then draw their grants from

merchant shops, all bank ATMs (since it's a master card with microchip), CPS ATMs which are in most stores using their finger prints and pin codes and they also can get their grants in the traditional pay points only using their finger prints.

3.7.3 If there are challenges with payment of beneficiaries, the affected beneficiary will contact CPS or SASSA officials by either calling them emailing them. Ultimately CPS deals with the enquiry.

Respondent's case

3.8 The Respondent argued that its sole mandate is to ensure the efficient and effective management, administration and payment of social grants to inter alia children, the aged and infirm that meet particular criteria.

3.9 The right to strike cannot be exercised by employees to the prejudice of the very beneficiaries that the Respondent is created to serve efficiently.

3.10 It disputes that the Grant Administrators (level 5) and Senior Grant Administrators (level 7) are not covered by the payment of social grants 1997 designation. The said category of employees is an integral part of the value chain of the payment of grants.

3.11 The Applicant's argument of excluding the Grant Administrators (level 5) and Senior Grant Administrators (level 7) from the 1997 designation is very narrow interpretation of payment of social grants. The process of payment begins from when a beneficiary approaches the Respondent for the benefit by making an application. It would be a travesty to divorce the work done by the Grant Administrators in question and the payment process of the social grants.

4. ANALYSIS OF SUBMISSIONS

4.1 Both parties furnished the ESC with detailed closing arguments for which the ESC wishes to express its gratitude. The ESC does not, however, intend to repeat all the legal arguments that have been submitted. These have been considered.

4.2 The case of the Applicants, to a large extent, is that the Grant Administrators (level 5) and the Senior Grant Administrators (level 7) are not part of the payment of social grants and are consequently not included in the 1997 designation.

4.3 The Applicants case is supported by the Grant Administrator's (level 5) and Senior Grant Administrators (level 7) job descriptions, which is uncontested.

4.4 The Respondent's case is that to interpret payment, as the actual exchange of money is very narrow.

4.5 It must be noted that the ESC declared the payment of social grants as an essential service, only a month after such grants fall due, meaning that for a period less than a month after they have not been paid, the service is not essential. If one carefully looks at the 1997 designation, the ESC carefully considered at what stage the interruption of the service in question would endanger life, personal safety or health, and concluded that such endangerment would not occur immediately when such pensions fall due, but only a month after the service fell due.

4.6 The ESC 1997 designation on payment of social grants clearly refers to an interruption of the service of payment to beneficiaries who qualify for such grants and not potential beneficiaries.

4.7 It is common cause that the Grant Administrators and Senior Grant Administrators are not physically involved in the payment, but they are only involved in the interviewing of clients; taking down new applications; review of life certificates and verifying/approving new applications. It is the view of the ESC that the Grant Administrators and Senior Grant Administrators in question deal with potential beneficiaries and not qualifying beneficiaries.

4.8 On the submissions made, and on careful consideration of the ESC 1997 designation on social pensions, the ESC is not convinced that the Grant Administrators (level 5) and Senior Grant Administrators (level 7), who perform pre-qualifying and approval duties are included in the ESC 1997 designation on payment of social pensions. The 1997 designation is limited to the payment process.

5. DETERMINATION

5.1 The designation of the ESC in 1997, that the payment of social pensions is an essential service, one month after it falls due does not include services rendered by Grant Administrators (level 5) and Senior Grant Administrators (level 7).



L. Bono
ESC: Chairperson
22 March 2016