



ARBITRATION AWARD

Commissioner: Stephan Cloete

Case No.: WECT12952-24

Date of Award: 05 August 2026

In the ARBITRATION between:

Solidarity obo CA Du Plessis

(Union / Applicant)

and

South African Police Services

(1st Respondent)

LT. COL P I Burger

(2nd Respondent)

APPROVED

Union/Applicant's representative: E Pio

1st Respondent's representative: C Samuels

PARTICULARS OF PROCEEDINGS AND REPRESENTATION

1. An Arbitration hearing relating to an alleged unfair labour practice (promotion) was held on 18 February and 8 and 9 July 2026 and the parties appeared via Microsoft Teams. The applicant, CA Du Plessis was represented by E Pio Legal Manager of Solidarity and SAPS was represented by C Samules their Legal Officer.
2. Both parties submitted a bundle of documents of which the contents were not disputed and accepted as evidence into the record.
3. Parties submitted closing arguments in writing by 16 July 2026 which was duly received.
4. I am indebted to the parties for their professional conduct during this arbitration.
5. I was granted extension to submit my award after the 14-day period due to ill health.

ISSUE TO BE DECIDED

6. I must decide whether the decision not to shortlist and promote the applicant for Post 39 constitutes an unfair labour practice and if so, I must determine the appropriate relief.

THE BACKGROUND TO THE DISPUTE

7. The applicant was employed by the Respondent on 1 October 1989 and is currently employed as Shift Commander at SAPS Vredenburg, Western Cape in the rank of Captain. He occupied the rank of Captain, since 1 December 2006.
8. On 22 March 2024 the Applicant applied for Post reference number 39, Station Commander Moorreesburg, Western Cape, on Band D, Level 10 on the rank of Lieutenant Colonel.
9. The Applicant submitted his application for the position but was not shortlisted for post 39. The applicant disputes that he was not the most suitable candidate for the position and believes that the respondent committed an unfair labour practice by not promoting him to Station Commander.

10. It is common cause that the applicant was shortlisted for post 48, Station Commander Mbekweni, however was not appointed following his interview.
11. The respondent is arguing that the most suitable person for the post was appointed and that no unfair labour practice was committed.
12. The applicant is seeking maximum compensation and or protected promotion if I find that the respondent committed an unfair labour practice by not short listing and promoting him.

SUMMARY OF EVIDENCE AND ARGUMENT

13. Section 138(7)(a) of the Act requires a Commissioner to issue an award with brief reason for his decision. All evidence by the applicant was considered, but only facts that are pertinent to the fair determination of the dispute are assessed. I have considered all evidence in determining the dispute.

APPLICANT'S VERSION

CHRISTAAN ALBERT DU PLESSIS testified under oath as follows:

14. The Applicant started his employment with the First Respondent on 1 October 1989 and is currently employed as Shift Commander at SAPS Vredenburg, Western Cape in the rank of Captain. He occupied the rank of Captain, since 1 December 2006.
15. The Respondent advertised several posts for promotion purposes on 8 March 2025 as part of the post promotion Phase 2024/25 Financial year with a closing date of 25 March 2024.
16. The promotions were subject to SSSBC Agreement 3 of 2011 and National Instruction 3 of 2015.
17. The Applicant said that he applied for Post reference number 39, Station Commander Moorreesburg, Western Cape, on Band D, Level 10 on the rank of Lieutenant Colonel.
18. The Applicant said that he fulfilled all the minimum requirements of the post. He was not shortlisted for post 39, but he also applied for post 48 in this very same promotion phase, which is the exact same post but in a different geographic location. The panel, all the criteria, and interview questions were exactly the same. Only one interview was also held for both posts 39 and 48. Applicant was given by

the panel in the interview for Post 48, a score 14 out of 30 for competence. Although the Applicant disputes this score in the sense that it had to be much higher, the given score becomes relevant when comparative scoring in Post 39 is considered.

19. The applicant further said that at the time of the dispute he had 34 years in service and 17 years in the rank of Captain and 30 years' experience as a Commander in the VISPOL environment. Captain Du Plessis was Shift Commander at Worcester from December 1994 to December 2006 (12 years), Crime Prevention Officer and Sector Manager from January 2007 to July 2009 (2 years) at SAPS Vredenburg as a Captain (Officer), Shift Commander at SAPS Vredenburg from July 2009 to 2024 (16 years) whilst also acting as Station Commander in St. Helena Bay and Laaiplek, and Acting Vispol Commander from July 2017 to August 2017 and Vispol Support Official from February 2024 to March 2024.
20. There were no differences in the job requirements for Posts 39 and 48.
21. The same panel members conducted the interviews for posts 39 and 48.
22. Several of the requirements were not followed in terms of Standing Order 301 The panel failed to reject application forms that were not signed and dated, the panel members failed to properly complete a declaration of interest form as required. Standing Order 301 was not complied with relating to amendments with initials and dates as required.
23. The chairperson and secretary did not comply with their obligation to ensure that all written records were kept. The evaluation panel did not independently rate each of the individual candidates and/or no evidence of that exists. The ratings were also arbitrary in that the panel did not properly apply their minds to the objective facts before them specifically relating to the inherent requirements of the job and experience in the field of the post.
24. The Provincial Commissioner did not satisfy himself that the process took place in accordance with the National Instruction 3 of 2015. The administration of promotions and grade progression in the South African Police Service (SAPS) is guided by National Instruction 3 of 2015, which sets the rules for moving from post levels 1 to 12 and from Constable up to Colonel. It mandates a minimum two-year service period in a promoted post.

25. The Interview panel were supposed to consist of Major General Mancini, Major General Modishana, Major General Dyanti, Brigadier Damoyi, Brigadier Malila and Brigadier Pather, however they were not all present during the interview process and replaced by new panel members without following due process in accordance with National Instruction 3 of 2015.
26. The panel did not consider employment equity but appointed Burger in post 39 based on merit.
27. He applied for post 39 as he complied with the requirements in terms of qualifications and experience but was not shortlisted. He also applied for post 48 for which he was shortlisted and invited for an interview.
28. The panel who interviewed him for post 48 only score him 14 which was not in line with his extensive experience and qualifications.
29. The applicant further said that the reasons of alleged non-suitability for not shortlisting him was arbitrary in that none of the shortlisted candidates' Part 2 forms reflect that the panel never applied their minds with regards to suitability. The panel's reasoning that he was not a current Station Commander is contradictory with applicant's Rulwa, Mfengu and Tunzi who were also not Station Commanders at that time either.
30. The applicant said that the years in rank shows that his experience in years in the rank of Captain is far superior than all the other shortlisted candidates.
31. Applications that do not comply with the prescripts of the application form, the National Instruction 3 of 2015 and the advertisement, must be rejected.
32. The Successful candidate **Burger's** application should have been rejected for the following reasons:
- Wrong PEP period
 - Application incomplete as to reasons why he left the mentioned positions
 - Post title omitted
 - Immediate Commander Dyanti did not certify his application; and
 - Non-compliance with Standing Order 301.

33. The following candidates' applications should also have been rejected and for the following reasons:

- Rulwa – Incomplete form why left previous positions (Not disputed);
- Adams - Incomplete form why left previous positions (Not disputed), Left pages blank, not certified qualifications and wrong PEP period (Not disputed);
- Johnas – Not attach certified copies of qualifications (Not disputed). His application was also misleading because he did not specify the periods holding the alleged titles of Vispol Head, DPO and Assistant Station
- Mfengu - Incomplete form why he left previous positions (Not disputed), Did not attached certified copies of qualifications (Not disputed). Mfengu was shortlisted for 2 posts (Post 34 and Post 39) and was interviewed once for both posts²³ and promoted to Post 34. This is also wholly unjustifiable given the evidence of this case.
- Tunzi – No evidence whatsoever that he complied with any of the minimum requirements;

34. The Applicant also said that he disputes all the scores for competence given his qualifications, courses and extensive experience, and the manner that he answered (despite him being stopped to answer a question during his interview) should have been much higher than only 14. He further said that the scores that the successful candidate, and others, got for competence are further inflated, highly circumspect, and unreliable in that there is no justifiable explanation how the same panel, scoring Burger on the same questions, against the same model answers, in the same process, could mark for Question 1 a score of 6 versus a score of 9, for Question 2 a score of 7 versus a score of 9, and Question 3 a score of 7 versus a score of 10.

35. Compliance with the National Instruction 3 of 2015, SSSBC Agreement 3 of 2011, Standing Order 301, Advertisement, Job Description and application form is obligatory and not just mere guidelines and that it applies to all SAPS members including all panel members. The applicant further said that the Respondent did not comply with reference to the following clauses:

- Clause 3(a)&(h) Employee must comply with the relevant requirements before the closing date;
- Clause 4(4)(b)(i, ii, iv,v, vi) Application form must be signed and dated timeously by the employee and

certified by his immediate commander,²⁵ must meet promotion requirements, requirements of the post, have all documentation requested in the advertisement attached, and received within the specified time limit in the advertisement

- Clause 4(5)(I&J) Only the Provincial Commissioner can appoint panel members in writing.
- Clause 4(5)(f) The panel members must complete a declaration of interest before any application is even considered. The panel is perceived to be impartial.
- Standing Order 301 was not complied with relating to signatures and dates that have to be appended;
- Clause 4(6)(a) The panel was clearly biased and did not comply with this clause;
- Clause 4(6)(d) & (e) and Clause 4(8)(c)(ii) The Chairperson and Secretary did not comply with their obligation to ensure that all written records are kept. Significant and very important documents was missing / non-existent.
- Clause 4(8)(a)²⁶ "The panel must scrutinize all applications on the basis of criteria in par 4(9)(a) and indicate in writing whether or not a candidate has been shortlisted for an interview, together with the reasons for such a decision". The panel did not comply with these requirements for any single one of the shortlisted candidates on their Part 2 forms. All of the Part 2 forms were incomplete and severely lacking on evaluating crucial elements.
- Clause 4(8)(d)(i) Similar questions must be put. No score sheets with similar questions, model answers and candidate answers were provided;

40.10. Clause 4(8)(d)(ix) The evaluation panel did not independently rate each of the individual candidates and/or no evidence of that exists. The interview ratings were also arbitrary and disputed by Applicant;

40.11. Clause 4(9)(a)(i &iii) The panel did not properly apply their minds to the objective facts before them;

40.12. Clause 4(10)(a) The provincial Commissioner did not satisfy himself that the process took place in accordance with this instruction, otherwise all the mistakes and non-compliance would have been picked up and the Applicant would've been promoted;

40.13. Clause 4(10)(m) The approval of promotion is conditional and a promotion will only become effective and confirmed after a completion of an acceptance form that was not disclosed by the Respondent.

36. The applicant said that the respondent unfair conduct had a major financial impact on him as has been on the top notch of his current salary as a captain.

37. During cross-examination it was put to the applicant that he has not been prejudiced during the specific promotion phase.

38. It was put to the applicant that his score for post 48 and in the event if he was shortlisted for post 39 would have been 56% for both posts.

39. The score he received of 14 out of 30 is not justified in relation to the answers he gave during the interview of post 48.

40. If the chairperson of the interview panel did not stop him when he answered question 1 he would have received a much higher score. The panel further did not properly conduct the shortlisting for post 39 because if that was the case he would have been shortlisted as well.

41. It was put to the applicant that Brigadier Malila will testify that candidates were currently employed as station commanders would have received preference in being shortlisted for post 39 and that the panel took into account for the periods he was acting as station commander.

42. It was further put to the applicant that Burger has been in the position of station commander since 2019 and had far more experience in this regard than the applicant.

43. Other candidates that had been shortlisted for post 39 had no experience as station commander.

44. It was put to the applicant that an appointment for post 39 was supposed to be made taking into account employment equity, however the successful candidate Burger, was appointed on merit as he had the highest score.
45. It was also put to the applicant that SAPS head office made the final decision as to the appointment of the successful candidate.
46. It was put to the applicant that the errors made in terms of Standing Order 301 did not affect the score of the applicant. The applicant replied that the scores of the candidates shortlisted for post 39 was inflated and not correct and he was severely prejudiced because of that.
47. During re-examination the applicant said the he did also did not accept the outcome of Post 48 and has referred an unfair labour practice dispute to the Commission.
48. Despite requesting the minutes of the moderation committee same is still outstanding.
49. The rationale of the scoring of the successful candidate was not made available.

RESPONDENT'S VERSION

Neville Malila testified under oath as follows:

50. He is employed by SAPS for 36 years and is currently a Brigadier. He was part of the panel appointed by the provincial Commissioner that shortlisted and appointed Burger for post 39.
51. Applications are scrutinized on the long list and a short list is compiled. Malila testified that the panel agreed to the long-listed applications being measured with regard to the core functions and the experience of Current Station Commanders/Acting Station Commanders experience and Vispol experience. Representativity was considered to address employment equity. Basic criteria are used to determine the short list.
52. The minimum requirements of the post were 2 years uninterrupted service in the rank and NQF 6- and 4-years uninterrupted service in the rank and NQF 4.

53. Malila said that panel applied the criteria determined by them as to the scores of all the shortlisted and interviewed candidates. He confirmed that when applying the criteria, there was a discrepancy in the marks in respect some of the scoring applied to the short-listed candidates, however, and made it clear that in terms of short listing, experience in the field of being a Station Commander and Acting Station Commander was taken into account.
54. Burger had far more experience as a station commander then the applicant.
55. During cross-examination Malila said that he is part of senior management and works in an environment with lots of discipline where tasks are done by the book.
56. Staff has to comply with fair processes during promotion matters.
57. He agreed that documents must be dated and any amendments must be initialed when changes are made.
58. He admitted that proper written records must be kept of the entire promotion process and agrees if one should read the records afterwards that it shows that a fair process was followed.
59. He further agrees that anything done in terms of the promotion process must be fully compliant with the relevant rules and procedures.
60. It was put to Malila that the panel must declare interest of a private nature or id they have any other interests in the matter,
61. He agrees that the decision of the panel is life changing.
62. He agrees that the evaluation of the candidates must be objective and fair.
63. He reiterated that he was not chairperson of the promotion process.
64. It was put to Malila that the changes done to the panel was not done in accordance with the standing order 301.
65. He said that the appointment of Burger was done of merit and not employment equity.

66. He cannot recall if certain documents were signed by the chairperson before or after the fact.
67. It was put to Malila that the entire promotion was not in compliance with regulated rules and procedures of SAPS.
68. He cannot agree with all the irregularities as the secretary must prepare the minutes and finalize the process of the previous day.
69. It was put to Manila that the promotion should have been confirmed only after the accepting the acceptance form which was not the case.
70. It was put to Malila that Burger's appointment must be rejected as his appointment process was not in accordance specifically with National Instruction 3 of 2015 and SSSBC Agreement 3 of 2011. The following non-compliance was found in the appointment of Burger:
- Wrong PEP period
 - Application incomplete as to reasons why he left the mentioned positions
 - Post title omitted
 - Immediate Commander Dyantyi did not certify his application; and
 - Non-compliance with Standing Order 301.
71. It was put Malila that similar non-compliance as above with National Instruction 3 of 2015 and SSSBC Agreement 3 of 2011 were noticed with the other interviewed candidates and their applications stood to be rejected as well.
72. He denied that the applicant was not shortlisted because of equity.
73. Burger was the only current station commander on the short list.
74. During re-examination Malila said the interviews for posts 39 and 48 was held on the same day being 10 April 2014.
75. All panelists score the candidates individually.

ANALYSIS OF THE EVIDENCE AND ARGUMENT

76. Section 186(2)(a) of the LRA provides as follows: Unfair labour practice means any unfair act or omission that arises between an employer and an employee involving:

(a) Unfair conduct by the employer relating to the promotion . . . of an employee.

(b) It has long been accepted that the decision to promote or not to promote falls within the managerial prerogative of an employer and that the courts will interfere only where such discretion was exercised capriciously, or for insubstantial reasons or based upon a wrong principle or in a biased manner. (See Minister of Safety & Security v SSSBC and others [2010] 4 BLLR 428 (LC) **in which the court rejected the notion that an employer has unfettered discretion when deciding whom to appoint.**)

It is trite law that there is no right to promotion. However, the principle of fairness is vital in any promotion process. The Labour Court per Cheadle J handed down a judgment in the matter of SAPS v Safety and Security Bargaining Council and others (Labour Court, case number P426/08; judgment date 27/10/2010). There is no right to promotion in the ordinary [2018] 6 BALR 600 (PSSSBC) at paragraph 605 course, only a right to be given a fair opportunity to compete for a post except when there is a contractual or statutory right to promotion. Any conduct that denies an employee a fair opportunity to compete for a post constitutes an unfair labour practice.

77. As Commissioner Grogan wisely comments “a Commissioner’s function is not to ensure that employers choose the best or most worthy candidates for promotion, but to ensure that, when selecting employees for promotion, employers do not act unfairly toward candidates” – Cullen / Distell (Pty) Ltd [2001] 8 BALR 834 (CCMA) at 837.

78. In Minister of Safety & Security v Safety & Security Sectoral Bargaining Council and others (Labour Court case number P186/08 dated 23/03/2010, unreported (La Grange AJ)) found that relief may take the form of a protected promotion. In effect this judgment said that the Labour relations Act confers on arbitrators the power to determine unfair labour practice disputes “on terms they deem reasonable”. While the SAPS National Commissioner “may enjoy a statutory discretion to promote, the power of arbitrators acting under the LRA supersede the regulations that give the national commissioner that power.”

79. It was further held by the court per La Grange AJ that in the event that an applicant is granted the relief of protected promotion, the National Commissioner’s powers are not assumed, “because the

arbitrator had not ordered the respondent officer to be appointed in place of the successful candidate. The arbitrator had merely ordered the SAPS to elevate his rank.

80. In more recent cases the courts have clarified the test to be that of fairness. In *Apollo Tyres SA (Pty) Ltd v CCMA and others* ((2013) 34 ILJ 1120 (LAC) [also reported at [2013] 5 BLLR 434 (LAC) – Ed], the Labour Appeal Court was dealing with an unfair labour practice relating to a benefit and quoted from *Du Toit et al* (*The Labour Relations Act of 1995* (2ed) at 443) with approval on the meaning of unfairness as follows:
- “[53]“[53] . . . unfairness implies a failure to meet an objective standard and may be taken to include arbitrary, capricious or inconsistent conduct, whether negligent or intended.” [2018] 6 BALR 600 (PSSSBC) at 606
81. In *Noonan v Safety & Security Sectoral Bargaining Council and others* (2012) 33 ILJ 2597 (LAC) [also reported at [2013] JOL 30191 (LAC) – Ed]. An employee who had been overlooked for a promotion challenged the decision not to promote him on the grounds that the successful candidate had failed to disclose information which affected his suitability for the post. On appeal, the court considered the ‘fairness of the process’ (paragraphs 17–46) as a whole and came to the conclusion that the employer had committed an unfair labour practice against the unsuccessful employee in that the successful candidate unfairly participated in the selection process.
82. In *City of Cape Town v SA Municipal Workers Union obo Sylvester and others* (2013) 34 ILJ 1156 (LC). The court expressly rejected the notion that the employer has the prerogative to decide who to appoint and that it should not be questioned when it exercises that discretion. The court stated that the proper yardstick was “fairness to both parties”. Paragraph 14. See also *South African Police Services v SSSBC and others* [2010] 8 BLLR 892 (LC) paragraph 15(iv) where the court stated that the role of the commissioner is to oversee that the employer did not act unfairly towards the candidate that was not promoted. See also *City of Tswane Metropolitan Council v SALGBC and others* (JR593/07) [2011] ZALCJHB 154 (26 May 2011) at paragraph 16. Bad faith is just but one of the considerations and not the only one. The test is simply that of fairness.
83. I can align myself with the findings of Commissioner W Everett in case number PSSS979-23/24 *Solidarity obo CA Du Plessis v SAPS* where she found the following:

"It is not in dispute that compliance with the National Instruction 3 of 2015, SSSBC Agreement 3 of 2011 and Standing Order 301 is obligatory and it applies to all SAPS members including the panel members. The applicant presented evidence that the respondent did not comply with various clauses of National Instruction 3.

It could be argued that the above breaches of National Instruction 3 are technical points and did not cause unfairness to the applicant. However, SAPS is a highly regulated environment and the strict requirements are the employer's own standards of conduct. It is accordingly reasonable to expect the employer to comply with its own directives.

24) The instructions and standing orders exist for a reason – to avoid unfairness and ensure consistent treatment of candidates. Furthermore, the keeping of proper minutes and scoresheets of individual panellists are the tools an employer needs to demonstrate consistency and fairness in promotions, both as regards the procedure and substance. In the absence of proper records, the employer was unable to disclose important documents, and those are the documents which might have demonstrated fairness. These missing documents included the written appointment of the final panel members, individual score sheets, evaluation forms for all the candidates, complete minutes of the shortlisting, the interviews, and the moderation committee meetings.

25) The applicant's evidence and cross-examination of the respondent's witnesses showed inconsistent scoring of candidates in terms of their years of experience, and the courses they had completed, with some scores inflated and others lower than they ought to have been. The evidence also showed that candidates with less experience than Du Plessis were shortlisted.

In the current matter the following evidence were presented of non-compliance with National Instruction 3 of 2015, SSSBC Agreement 3 of 2011 and Standing Order 301:

Clause 3(a)&(h) Employee must comply with the relevant requirements before the closing date;

Clause 4(4)(b)(i, ii, iv, v, vi) Application form must be signed and dated timeously by the employee and certified by his immediate commander, 25 must meet promotion requirements, requirements of the post, have all documentation requested in the advertisement attached, and received within the specified time limit in the advertisement

Clause 4(5)(I&J) Only the Provincial Commissioner can appoint panel members in writing.

Clause 4(5)(f) The panel members must complete a declaration of interest before any application is even considered. The panel is perceived to be impartial.

Standing Order 301 was not complied with relating to signatures and dates that have to be appended;

Clause 4(6)(a) The panel was clearly biased and did not comply with this clause;

Clause 4(6)(d) & (e) and Clause 4(8)(c)(ii) The Chairperson and Secretary did not comply with their obligation to ensure that all written records are kept. Significant and very important documents was missing / non-existent.

Clause 4(8)(a)26 "The panel must scrutinize all applications on the basis of criteria in par 4(9)(a) and indicate in writing whether or not a candidate has been shortlisted for an interview, together with the reasons for such a decision". The panel did not comply with these requirements for any single one of the shortlisted candidates on their Part 2 forms. All of the Part 2 forms were incomplete and severely lacking on evaluating crucial elements.

Clause 4(8)(d)(i) Similar questions must be put. No score sheets with similar questions, model answers and candidate answers were provided;

Clause 4(8)(d)(ix) The evaluation panel did not independently rate each of the individual candidates and/or no evidence of that exists. The interview ratings were also arbitrary and disputed by Applicant;

Clause 4(9)(a)(i & iii) The panel did not properly apply their minds to the objective facts before them;

Clause 4(10)(a) The provincial Commissioner did not satisfy himself that the process took place in accordance with this instruction, otherwise all the mistakes and non-compliance would have been picked up and the Applicant would've been promoted;

Clause 4(10)(m) The approval of promotion is conditional and a promotion will only become effective and confirmed after a completion of an acceptance form that was not disclosed by the Respondent.

84. In terms of National Instruction 3 of 2015, SSSBC Agreement 3 of 2011 and Standing Order 301 is obligatory and it applies to all SAPS members including the panel members. The second respondent's appointment stands to be rejected as there were non-compliance with National Instruction 3 of 2015, SSSBC Agreement 3 of 2011, Standing Order 301.

85. In the South African Police Service (SAPS) promotion disputes, compliance with National Instruction 3 of 2015, SSSBC Agreement 3 of 2011, and Standing Order 301 is mandatory. If selection panels or the Provincial Commissioner fail to properly evaluate objective facts or oversee the process, the promotion decision is legally vulnerable and subject to review or setting aside. The panel failed to ensure compliance with the following before appointing the 2nd respondent and his application stand must be rejected for the following reasons:

- Wrong PEP period
- Application incomplete as to reasons why he left the mentioned positions
- Post title omitted
- Immediate Commander Dyantyi did not certify his application; and
- Non-compliance with Standing Order 301.

86. The remainder of the short-listed candidates' applications must also be rejected for the following reasons:

- Rulwa – Incomplete form why left previous positions (Not disputed);
- Adams - Incomplete form why left previous positions (Not disputed), Left pages blank, not certified qualifications and wrong PEP period (Not disputed);
- Johnas – Not attach certified copies of qualifications (Not disputed). His application was also misleading because he did not specify the periods holding the alleged titles of Vispol Head, DPO and Assistant Station

- Mfengu - Incomplete form why he left previous positions (Not disputed), Did not attached certified copies of qualifications (Not disputed). Mfengu was shortlisted for 2 posts (Post 34 and Post 39) and was interviewed once for both posts²³ and promoted to Post 34. This is also wholly unjustifiable given the evidence of this case.
- Tunzi – No evidence whatsoever that he complied with any of the minimum requirements;

87. With the above in mind, it is submitted that the conduct of the respondent was arbitrary, grossly unfair and irregular. It is submitted that the right of the applicant has been infringed upon based on the proven facts. A nexus exists between the gross unfairness and the non-short listing and non-promotion of the applicant. Because promotion opportunities are also quite limited, the infringement is serious. According to the undisputed evidence the applicant qualified to be short-listed and promoted.

88. It therefore follows that the 1st respondent committed an unfair labour practice by not short listing and not promoting the applicant.

89. Presently I believe it would be in accordance with fairness to award the applicant compensation as opposed to protected promotion and that it would be just and equitable to do so in the form of ten months compensation equal to R457 400.00, calculated as follows: R45 740.00 x 10 months.

AWARD

90. The respondent, South African Police Services committed an unfair labour practice by not short listing and promoting the applicant Captain CA Du Plessis and the respondent is ordered to pay compensation to the applicant in the amount of **R457 400.00**.

91. This amount must be paid to the applicant by no later than 28 August 2026.



CCMA COMMISSIONER: Stephan Cloete