



**ALLIANCE
Of
Communication Workers Union
&
South African Communication Union**



Good Day Colleagues

Sprouting out of the exhausted internal grievance process which flowed out of the Company requesting the CCMA Commissioner at the last arbitration sitting for a last opportunity to conclude the dispute internally the following.

The session was conducted by independent legal professional, Presiding Advocate Beukes, with a terms of reference that did not give her the power to make a final and binding decision on both parties. Her function as Chairperson of the final step of the internal grievance process was to listen to the parties and give a legal opinion.

We re iterate that the opinion of the advocate is based on her legal interpretation and now the way is clear for the last stretch in the CCMA arbitration for ruling that would bind the parties to the instruction thereof.

As per the statement of Advocate Beukes, this internal grievance and CCMA dispute now covers more than 800 employees that are being represented by SACU & CWU. The advocate's views in the mediation process will form part of our final argument in the CCMA. She relied heavily on the Labour Relations Act in Section 197 where the minimum requirements are stipulated to protect the rights of transferred employees from one company to another. The Act clearly states that in the absence of any further agreement between affected employees and the new company, all rights remain in force after the transfer.

There were a few instances in the internal grievance mediation process where the company representative indicated to the Advocate that they do not feel obliged to honour promises made by the companies at the time of transfer 'due to it been made by Telkom'. The Chairperson indicated her concern with this stance and alluded to the possibility of BCX being in danger of misrepresentation in this matter. We were quite concerned at the tone of their position and will include this in the final arbitration argument.

One growing concern is that currently BCX has stopped affecting any union subscription deductions from our BCX members' salaries. It was brought up as an aggressive argument between BCX and the applicants representatives in the last two Arbitration sittings that BCX do not want consider any aggrieved parties other than present SACU and CWU members, in the event that the award from the commissioner is made in the favour of the applicants.

They further used one of the tactics earlier in the year to get the matter postponed due to the unavailability of their own legal representative before the mass VSP/VERP process took place, and at the next sitting quoted that they would also not honour any remuneration of ex-employees that took the package. Our position and argument is and will right to the end be that all the people that were part of the transfer that suffered the injustices who signed the grievances must be addressed and all affected employees were since the beginning and until the end. We represent the total of 815 applicants!

This was, and is still a bitter argument where our stance is rigid in the rights of the transferred employees that were violated in such abrupt fashion. Therefore we implore affected employees as well as your colleagues to ensure that you are covered by being a member of one of the unions to mitigate the possible effects of the company's technical arguments and ensure the company position on the matter be minimised.

In addition, we need to understand that when the matter is successfully argued and in the event that the company goes against the Arbitration outcome due to their argument of inclusions of the respective employees they deem as falling outside the ambit of the award, we will have to approach the labour court again, and this will be a further administrative nightmare as SACU and CWU will be in a difficult position to defend affected people excluded by BCX's interpretations, who are not members of the unions in this dispute.

In conclusion we implore readers to populate the debit order forms (Attached) for us to prove to BCX that they cannot continue to play this card before the CCMA anymore. Even the employees that have taken the VERP/VSP can stay union members, with all the benefits included.

We have attached the debit application form for easy reference in joining SACU and retaining the benefits that is accompanying the membership application.

THE CHOICES YOU MAKE, NOT THE CHANCES YOU TAKE DETERMINE YOUR DESTINY...

END