

2. PRESCRIPTS REGULATING THE MANAGEMENT OF PROBATIONARY APPOINTMENTS

2.1 INTRODUCTION

Probationary appointments are regulated by the Public Service Regulations, 1999, the White Paper on Human Resource Management in the Public Service, the Labour Relations Act, 1995 and the Public Service Laws Amendment Act, 1997. Prior to the adoption of the Public Service Regulations, 1999 (PSR), probationary appointments were regulated by the Public Service Staff Code.

In addition to the above prescripts, each department in the Public Service is expected to formulate its own policy within the parameters set by these prescripts.

2.2 MEASURES RELATING TO PROBATIONARY APPOINTMENTS THAT EXISTED AT THE TIME OF THE INVESTIGATION

The following extracts of the provisions of the various acts and regulations existed at the time of the investigation and which had to be heeded:

The Public Service Laws Amendment Act, 1997

Section 10 of the Public Service Laws Amendment Act, 1997, stipulates that the probationary period shall not be less than 12 calendar months. It further stipulates that the period of probation shall be extended by the number of days leave taken by the officer during the period of probation or any extension thereof.

The Public Service Staff Code

Although applicable at the time of the investigation, the Public Service Staff Code was, as already alluded to, withdrawn by *Government Gazette* No. 20271 on 1 July 1999. It contained the following guidelines on the management of probationary appointments which had to be adhered to:

- In terms of Chapter B III, Part II, paragraphs 9,10 and 11, all appointments had to be effected after twelve calendar months' probation
- Probationary periods exceeding twelve calendar months may also have been imposed when per-

sons who had suffered from nervous diseases or mental disorders had to be appointed in a permanent capacity

- No limit was placed on the period with which probationary periods may be extended
- A system of quarterly reports was introduced with the objective of exercising control over the progress of probationers during the probationary period and was intended to form the basis upon which the confirmation, extension or termination of the probationary appointment was ultimately to be considered.
- In cases where an officer's probationary appointment, transfer or promotion could not be confirmed, the probationary period could either have been extended or the officer's services terminated, or otherwise action could have been taken as provided for in section 10 of the Public Service Laws Amendment Act, 1997.

The White Paper on Human Resource Management in the Public Service

The White Paper on Human Resource Management in the Public Service, in paragraph 5.4 of Chapter 5, stipulates a minimum of three and a maximum of six months of probation. It further stipulates that the only exception to the rule should be made in the case of student nurses and cadet technicians whose contracts require the completion of extended training periods before confirmation of appointment. During probation the employee should undergo an orientation programme which should provide the basic information that he or she requires in order to function in the organisation. In-service and induction training should also be provided to enable the employee to become productive as quickly as possible.

The White Paper further stipulates that clear criteria should be laid down on how the employee will be assessed during the probationary period and also that these criteria should be disclosed to the employee.

The Labour Relations Act, 1995

The Labour Relations Act, 1995, in paragraph 8 of



Schedule 8, stipulates that a reasonable probation period must be given in line with the circumstances of the job. The Act also stipulates that, when appropriate, an employer should provide an employee with whatever evaluation, instruction, training, guidance or counseling the employee requires in order to render satisfactory service. Dismissal during the probationary period may only be considered after the foregoing have been complied with and should also be preceded by an opportunity for the employee to state his/her case and to be assisted by a trade union representative or fellow employee.

tance, etc. are now enshrined in Public Service policy to serve as a basis and framework for any departmental policy and procedures.

2.3 MEASURES RELATING TO PROBATIONARY APPOINTMENTS THAT WERE INTRODUCED AFTER THE INVESTIGATION WAS CONDUCTED

The following are extracts of the provisions of the Public Service Regulations, 1999, that were introduced after the investigation, had been launched:

Chapter 1, Part VII, regulation E of the PSR, emphasises the role of managers/supervisors, viz. to ensure that the probationer -

- at the commencement of the probationary period, knows the performance and other requirements for obtaining confirmation of probation;
- on a quarterly basis, receives written feedback on his or her performance and compliance with other requirements;
- if necessary, receives training, counseling or other assistance to meet the requirements for confirmation;
- receives written confirmation of appointment at the end of the probationary period if he or she has been found suitable for the relevant post; and
- is afforded the opportunity to state his or her case when dismissal as a result of poor performance is considered, during which process he or she may be assisted by a personal representative, including a colleague or trade union representative.

With the introduction of the PSR, sound labour relations principles such as substantive and procedural fairness, openness, transparency, rendering assis-