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Please quote our reference: PFA/WE/6751/2006/NVC

DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24 of 1956 (“the Act”): M Louw (“the complainant”) v Standard Bank Group Retirement Fund (“the respondent”)

1. Introduction

- 1.1 The complaint concerns the calculation of the benefit that was paid after the death of the complainant’s brother, who was a deferred pensioner.
- 1.2 The reformulated complaint was received on 27 February 2006 and a letter acknowledging receipt thereof was sent to you on 24 April 2006. On the same date a letter was dispatched to the respondent requesting it to submit a response to the complaint by 16 May 2006. After requesting an extension, the response was received on 24 May 2006. The response was sent to the complainant on 25 May 2006 for a reply by 15 June 2006. No reply has been received from the complainant. Further information was requested and obtained from the respondent on 3 October 2007.
- 1.3 After considering the written submissions before me, I consider it unnecessary to hold a hearing in this matter. My determination and reasons therefor appear below.

M Mohlala (Adjudicator), C Nkuhlu (Snr Assistant Adjudicator), F Mtayi (Snr Assistant Adjudicator), K MacKenzie (Snr Assistant Adjudicator), R Maharaj (Snr Assistant Adjudicator), M Ndaba (Snr Assistant Adjudicator), M Daki (Snr Assistant Adjudicator), E de la Rey (Snr Assistant Adjudicator), N van Coller (Assistant Adjudicator), L Mbalo (Assistant Adjudicator), S Gcelu (Assistant Adjudicator), M Ramabulana (Assistant Adjudicator), N Sihlali (Assistant Adjudicator), S Mothupi (Assistant Adjudicator), P Mphephu (Assistant Adjudicator), C Seabela (Assistant Adjudicator), P Myokwana (Assistant Adjudicator), L Nevondwe (Assistant Adjudicator)

Office Manager: L Manuel, Financial Manager: F Mantsho, Accountant: R Soldaat

2. Complaint

- 2.1 The complainant states that she received an amount of R1 541.44 (in another document she notes this amount as being R15 741.44) from the respondent after the death of her brother, Mr Salie Jacobs (“the deceased”) on 8 September 2004, but states that the respondent neglected to submit a “financial report” to her. She is also dissatisfied about the “payment system”. She states that she expected the respondent to disclose extensive details to her, on for instance, the full benefit payable and the surplus in the fund. It appears, after requesting the complainant to reformulate her complaint, that she is seeking to establish if the respondent paid her the full amount due in terms of the rules of the fund.

3. Response

- 3.1 The respondent asserts that the complaint is not clear but in its view it appears that the complainant is dissatisfied about the payment that she received following the death of her brother, who was a deferred pensioner of the fund. The respondent states that it requires clarity on what the complainant’s dissatisfaction entails regarding the financial report and the payment system.
- 3.2 According to the respondent, the deceased was employed by The Standard Bank of SA Limited from 1964 to 1975, when he resigned and deferred the payment of his pension benefits to 26 November 2008, when he would be 65. However, he died on 8 September 2004 at which time the value of his pension had risen to R1 857.15 per annum, from the initial amount of R88.00 per annum.
- 3.3 The respondent advised this office in its letter dated 3 October 2007 that it had come across a note which outlines the practice that is followed in respect of deferred pensioners who are deceased prior to the pension maturing as in the current case. The said practice is to pay the dependants of the late member the present day actuarial value of the pension, as approved by the trustees of the fund. The respondent confirms that the deceased’s death benefit was calculated according to this practice. The respondent’s actuary determined the capital value of the deceased’s fund credit as R14 990.11 as at 31 August 2004, and as the complainant was the deceased’s sole beneficiary, the full benefit of R15 741.44, which included interest, was paid to her on 26 August 2005. The fund concludes that she has no grounds for a complaint having received the full benefit arising from the deceased’s deferred pension.

4. **Determination and reasons therefor**

4.1 To ascertain the calculation of the death benefit the rules as they prevailed at the time of the deceased's death in September 2004 must be examined. In terms of the applicable rules the deceased was a "deferred pensioner". However, under "Death" in part 5 of the rules there is no provision for the payment of a benefit in the event of the death of a deferred pensioner.

4.2 However, this appears to have been an oversight in that there are other provisions in the rules which indicate that the payment of a benefit on the death of a deferred pensioner was intended to form part of the fund's benefit structure. I am referring to the definition of "dependent" and rule 2.2.2(b)(iv) which are quoted below.

"DEPENDANT of a MEMBER, PENSIONER or DEFERRED PENSIONER: a person who falls within the definition of dependant in the ACT;"

and Rule 2.2.2(b)(iv) states:

"Debits

...

(iv) payment in respect of a DEFERRED PENSIONER on his death of an amount equal to the value of the deferred PENSION as at the date of death as calculated by the VALUATOR on a basis approved by the TRUSTEES;"

4.3 Based on the above rules I shall assume in favour of the complainant that the benefit payable on the deceased's death was the value of the deferred pension as at the date of death as calculated by the valuator.

4.4 The benefit payable to a deferred pensioner is governed by Rule 34 of the

"Old Rules" which states:

"A member who leaves the service of an employer (except on transfer to another employer or to THE STANDARD BANK LIMITED) after having completed 10 (ten) years of service and who is not awarded an immediate pension shall be entitled to a deferred pension subject to the following conditions-

(a) (i) ...
(ii) ..."

(b) The amount of the deferred pension shall be-

(i) if the member shall have completed 10 (ten) years but less than 20 (twenty) of continuous service one-eightieth of the member's average

basic annual salary or wage taken over the 5 (five) years immediately preceding his leaving the service of the employer for each year of his pensionable service at that time;”

- 4.5 From the above it is evident that, in order to determine the correct calculation of the deferred pension the deceased's salary details from 1970 to 1975 would be required. In its response the respondent advised that the average salary at the time was R702.82 per annum which equated to, in terms of this rule, to a deferred pension of R87.75 per annum.
- 4.6 The deceased's pension of R87.75 per annum, calculated in terms of rule 34(b) of the “Old Rules” was inflated to a current value of R1 857.15 per annum and actuarially converted into a lump sum death benefit of R14 990.11. The complainant was subsequently paid this amount plus interest, being in total R15 741.44.
- 4.7 In view of the above, I am satisfied that the complainant has no claim to further benefits from the fund.

5. **Relief**

- 5.1 The complaint is dismissed.

Dated at Cape Town on this the day of 2008.

Yours faithfully

Mamodupi Mohlala
Pension Funds Adjudicator