

- The policy of Public Bodies is that those who have higher qualifications will benefit from extra marks even if the qualification for eligibility does not require such high qualifications**
- An adverse report will automatically impact negatively on the candidate at the time of interview as the panel will look at the Reports on each candidate.**

The Appellant is a RECR at the Municipal Council of At the time of the appeal, he was on assignment of duty as DVE.

He is appealing against the decision of the Respondent to appoint eight employees of the Municipal Council as DVE (Roster) following a selection exercise.

Appellant's Case

Appellant averred that he had more experience in the specialised field in the special unit. He was better qualified and he was already performing the duties of DVE at the time of selection.

Appellant joined the Municipal Council of On ..., he was again assigned the duties of DVE.

Appellant averred that he held all the required qualifications for the post.

Following an advertisement by Respondent dated ... for the post of DVE (Roster) at the Municipal Council of..., he applied and was called for interview on

The Appellant moved that the appointments made by the Respondent be quashed and for such orders that the Tribunal may deem fit.

Respondent's Case

The Respondent averred that the vacancies for the said post were "*by selection from among employees on the permanent and pensionable establishment of the local authority who:*

1. Possess a basic certificate
2. Possess a valid permit in the specialised field
3. Have a basic knowledge of ...and
4. Have a good special physical condition

The Respondent confirmed the dates of appointment of the Appellant in the Municipal Council and his assignment of duties as averred. The Respondent pointed out that, the fact that the Appellant performed the duties as DVE did not give him any claim for permanent appointment as DVE as it was clearly spelt out in the letter given to him to that effect. He was only paid a responsibility allowance in accordance with the regulations in force.

The appointments were made in accordance with applicable laws, the requirements of the Scheme of Service for the post and the criteria for selection.

The Respondent stated that the grounds of appeal were frivolous and devoid of any basis upon which they could be considered.

The Respondent moved that the appeal be set aside.

Determination

The appointments to the post of DVE (Roster) are made by selection and this is not contested by the Appellant.

The fact that the Appellant has been assigned the duties of DVE is not a reason for appointment. This was made clear to the Appellant when he was given the letter of assignment of duties. This ground of appeal is set aside. It is noted that six of the eight appointees had also been assigned the duties of DVE.

When being cross-examined by the Respondent, the Tribunal was informed that the Co-Respondents had no adverse report against them. On the other hand, the Appellant had a case of assault for which he was reprimanded.

The Tribunal sought information from the Respondent on the criteria relied upon by the selection panel such as selection, the weight attached to each criterion and the markings. In particular, the Tribunal wanted to know whether the adverse report against the Appellant impacted on the appointment decision.

The criteria were as follows:

- (i) Qualifications
- (ii) Personality & Presentation
- (iii) Attitude (Politeness, Trustworthy & Conduct)
- (iv) Interpersonal and Communication Skills
- (v) Knowledge of the Job

On the criterion "Qualifications ", Co-Respondents Nos ...and ... obtained full marks as they sat for a higher Certificate while Appellant and the other Co-Respondents obtained less marks as they only had the basic Certificate.

On the other criteria, the Appellant scored lower marks than the Co-Respondents but he did not do badly overall and is now on the merit list.

The Respondent confirmed what was said at the hearing before the Tribunal to the effect that the Appellant was fined by the District Court of ... for assault, following which he was given a warning by the Responsible Officer of the Municipal Council of.... This information was before the selection panel. Among the Co-Respondents, only Co-Respondent No ..., the last appointee in the list, was prosecuted before a court of law. He paid a fine of Rs ... before the District Court of ... in This is probably why he is last on the list of appointees.

Given the adverse report, the Tribunal does not find that the Respondent has erred in its assessment exercise.

The appeal is set aside.