

Det 25 of 2017

An applicant who does not even remotely have any experience of the duties of the post, nor even the basic qualifications required cannot claim to be aggrieved when more qualified and experienced officers are appointed in a specialised field.

Appellant, an Assistant-MOC in the Ministry of...(hereafter referred to as the Ministry), has appealed to the Tribunal against the appointment of the 10 Co-Respondents to the post of LARY.

Appellant's Case

The Ministry had, by way of internal advertisement, notified vacancies in the post of LARY. Subsequently, ten officers were appointed in a temporary capacity. Appellant averred that, according to the Scheme of Service, he was more qualified than all the Co-Respondents.

The Appellant's Grounds of Appeal (GOA) were that he was:

“(i) More qualified

(ii) More experience

(iii) If they have more experiences proof should be provided.”(sic).

The Appellant expatiated on his GOA in a Statement of Case as follows:

- (i) He questioned the fact that some appointees did not even have the basic qualifications and would not be able to read the specialised documents.
- (ii) He averred that he studied “... .. and ... and got some practical and theory experiences.” (sic).

(iii) He suggested “a practical or theory test should be done in front of the Tribunal.”

The Appellant produced a document signed by Mr X for Divisional SIC Officer (EMY Division). The Document described his duties while he was at the EMY Division from ...to

Co-Respondents’ Case

All the Co-Respondents, except Co-Respondent No 1 stated that they would abide by the Tribunal’s determination. Co-Respondent No 1 stated he would assume his own defence.

Respondent’s Case

Respondent averred that, according to the Scheme of Service (SOS), the post of LARY (formerly LAT) was filled as follows:-

“By selection from among employees on the permanent and pensionable establishment of the Ministry who possess at least a pass in ... or ... or ... obtained at the Cambridge School Certificate or at the General Certificate of Education “Ordinary Level” or an equivalent qualification acceptable to the Respondent.

Note 1

In the absence of qualified candidates, consideration will be given to employees on the permanent and pensionable establishment of the Ministry who have proven experience of LAT work although they do not possess the above qualifications.

Note 2

For the first intake, consideration will be given to SPRS who have proven experience of LAT work, although they do not possess the above qualifications.”

The Respondent went on to give the record of service, the qualifications and the experience of each of the Co-Respondents in so far as they were relevant to the post of LARY. It is to be noted that several Co-Respondents were merely described as having

performed duties of LAT against payment of an allowance. For those who were posted at the EMY Division, some of them had obviously been collaborating for a number of years. Appellant did not possess the main qualifications for the job but was considered as per Note 1 of the Scheme of Service on the same footing as nine of the Co-Respondents. Appellant had sat for the GCE (O Level). In ... he passed in different subjects than those required in the Scheme of Service.

Respondent also gave the salient points of Appellant's record of service which showed that, for most of his career as a GWR, he was associated for a few short periods of time with routine duties remotely related to LAT work proper. He in fact, used to accompany a team of LAT workers to do very simple tasks. For some time he was performing duties in different positions. Since December ... to date, he had performed in yet another position which again, by no stretch of the imagination could be considered as falling under LAT duties.

Under cross-examination by Counsel for the Respondent, Appellant conceded that he was not aware of the duties performed by most of the Co-Respondents although he had come across a few of them. His evidence on this matter was most unreliable as he had no way of knowing what were the specific duties entrusted to each of the appointees by their supervisors, the more so as they were not team mates.

Determination

The Tribunal had sought the mark sheets for the selection exercise from Respondent, who produced same for the eyes of the Tribunal only. The Respondent's ratings of the various applicants for the post of LARY against the criteria used for the selection seemed in order and the Tribunal is satisfied that Appellant scored less marks than all the Co-Respondents although he did well enough under some of the criteria. The criteria used by the selection panel were:

- (a) Academic Qualifications
- (b) Knowledge and Experience of Work
- (c) Conduct/ Attendance

- (d) Personality/ Interpersonal Skills
- (e) Performance at Interview

Co-Respondent No.1 who had informed the Tribunal that he would defend his own case 'was sworn in' but since the Appellant had himself stated he was the most qualified of the Co-respondents, Co-Respondent No.1 stated there he did not know Appellant as he never worked in the same place and had no more to say.

On the totality of the evidence the Tribunal finds that the Appellant's appeal is devoid of merit.

The Appeal is therefore set aside.