

The Tribunal does not review criteria of selection unless they are contrary to the Scheme of Service.

The Appellant, a HWR, is challenging the decision of the Respondent to appoint the Co-Respondent to the post of PAER. In his grounds of appeal he mentioned only the name of the Co-Respondent but in his Statement of Case he referred to the appointment of a second appointee in the same appointment exercise. It was explained to him that he cannot bring the second appointee as a party to the appeal as he cannot go outside his grounds of appeal. He understood and decided to limit his appeal to the appointment of the Co-Respondent.

Appellant's case

The Appellant averred that he was more experienced than the Co-Respondent. He was senior to him and he was a more appropriate person for appointment. He *“acquired several years of experience and skills working in different situations with different types of machines and equipments, I am most competent as compared to the two other candidates for the post of PAER”*.

On cross-examination and after he was explained the difference between promotion and selection, he agreed that seniority was not a determining factor in the appointment exercise which was by interview.

He conceded that he was not the holder of a basic certificate but he pointed out that the Co-Respondent also did not have the basic certificate.

Respondent's Case

The Respondent averred that the post was filled by selection from employees on the Permanent and Pensionable Establishment of the Local Authority as per the Scheme of Service. The vacancy in the post was advertised on.... There were ... candidates and ...of them, including the Appellant, were found eligible and interviewed

on.... There was a first appointment, then following another vacancy, the Co-Respondent was appointed from the merit list.

The Respondent averred that both the Appellant and the Co-Respondent were qualified as per the Scheme of Service. The interview was based on the following criteria:

- (i) Qualifications
- (ii) Personality
- (iii) Safety Precautions/Hazards
- (iv) Experience in the trade and
- (v) Knowledge of the job

The Respondent also averred that all procedures were followed and it acted in accordance with the Scheme of Service and in compliance with regulation 13 (1) (b) of the LGSC Regulations. It further stated that "*the Tribunal has no powers and jurisdiction to review the criteria of selection of any appointment exercise, which rests with the Respondent*".

The Respondent averred that the appeal had no merit and moved that it be set aside.

Determination

In the first instance, the Tribunal wants to make it clear that it does not review the criteria of selection in any selection exercise, unless such criteria are contrary to the requirements of the Scheme of Service, the LGSC Regulations or unreasonable in the Wednesbury sense. The Trade Union representative who assisted the Appellant did make some comments on the criteria that were used by the selection panel. However, the Tribunal will not say more on this.

It is agreed that the post was filled by selection and seniority is not a determining factor as Appellant thought it was. There were other criteria which were taken into account and for which marks were given. The Tribunal requested the Respondent to give the weights and markings for these criteria. These were provided to the Tribunal under confidential cover.

The Tribunal finds that both Appellant and the Co-Respondent were at par on four of the criteria, with no marks on Qualifications as they both did not possess the

basic certificate. What demarcates the Co-Respondent from the Appellant was on the criterion “Knowledge of the Job” which carried high weightage. The Co-Respondent scored more marks than the Appellant and this tipped the balance in favour of the former. The Tribunal finds no flaw in the assessment of the selection panel.

The appeal is set aside.