

Det 40 of 2017

Whenever a specific permit is required for a job in a department, the Respondent cannot appoint someone who does not possess the said licence and has no particular knowledge of the job.

The Appellant is a ROO at the Municipal Council of.... He is challenging the decision of the Respondent to appoint the Co-Respondents to the post of RDD instead of him.

Appellant's Case

The grounds of appeal of the Appellant were as follows:

“(1) I meet all the requirements

(2) I have the required qualifications

(3) I hold a ... permit

(4) I have performed well in the interview level”

The Appellant averred that he was appointed ROO/TT on ... and he was confirmed to that post on.... He applied for the vacant post of RDD following Respondent's Circular Note No ... of 2016. He provided all the required information and qualifications requested in the circular in his application form. He met all the requirements for this post.

Appellant stated that he was called for interview for the post on He averred that he performed well at the said interview and answered all the questions which were related to the duties for the post.

Appellant further stated that it was brought to his attention that not all the selected candidates met the requirements for the post and were eligible to perform all the duties mentioned in the circular, in particular the requirements for ... and operating

refuse collection lorries and other vehicles involved with refuse collection and the possession of the necessary permits. He also averred that he is more senior than Co-Respondent No.2.

He considered that he had been prejudiced in the exercise and thus his appeal to seek redress from the Tribunal.

Respondent's Case

The Respondent averred that the Appellant was appointed to the grade of ROO/TT on ... and not ... as stated by the Appellant. He was confirmed to the post on....

Respondent averred that the post was filled by selection:

As per the scheme of service for the post of Driver (Roster), is made from among employees on the permanent and pensionable establishment of the Local Authority who:

“(i) Possess the Certificate of Primary Education

(ii) Possess a valid RDG permit

(iii) Have a basic knowledge of mechanics and simple vehicle maintenance;

and

(iv) Have good eyesight”.

The Unified Local Government Service Board had recommended that vacancies in the grade of RDD at the Municipal Council of ... be filled by way of advertisement to serving employees in that Municipal Council. This was what the Respondent did when it issued the Circular Note No...

There were 22 candidates and 12 candidates, including the Appellant, were found eligible. They were called for interview on 16 February 2017 in order to assess their suitability. The Co-Respondents fared better than the Appellant and were appointed.

The Respondent averred that the post was filled by selection and seniority was not a determining factor in a selection exercise.

The Respondent averred that it followed all the procedures and the appointment of the Co-Respondents was made following a selection exercise as per the Scheme of Service.

The Respondent submitted that the appeal had no merit and should be set aside.

Determination

The whole issue relates to the possession of the RELEVANT permit and the duties of the post.

It was clear at the hearing that the types of permits required was ambiguous. The Scheme of Service refers to a valid RDG permit. This may give the impression that a permit in any of these categories will suffice for eligibility. However, when this is read together with the duties of the post it becomes clear that the candidates for the post needs to have a specific kind of permit.

The representative of the Municipal Council confirmed at the Hearing before the Tribunal that Drivers (Roster) were recruited for the refuse collection department.

At the Hearing, the permits of the Appellant and the Co-Respondents were produced. It was found that Co-Respondent No.2 possessed only a permit for AC, whereas the Appellant had a permit for LRS.

The representative of the Council stated on cross-examination that there were four categories of DDs at the Council namely:

- i. DHMR;
- ii. DHM
- iii. RDD; AND
- iv. DD.

He also admitted that the Municipal Council needed more DDs of LRS for ...

It is obvious therefore that the post of RDD was meant for the RCC department which required DDs to do more strenuous work and have to work on roster. The

possession of a permit for LRS is necessary. For the post of DD, a permit is enough and there is no need to do it on roster.

The Tribunal finds that the Respondent is at fault when it decided to recruit a candidate only possessing a simple basic permit for AC for the RCC department. The appointment of Co-Respondent No 2 is in conflict with the Scheme of Service for the post as explained above. The Tribunal is also surprised to see from the confidential information provided to the Tribunal that Co-Respondent No 2 obtained more marks on the criterion "Knowledge of the Job" than the Appellant when Co-Respondent No 2 does not have a permit for LRS and is only doing a lighter job at the Municipal Council, which cannot involve any particular "Knowledge of the job".

The Tribunal quashes the decision of the Respondent to appoint Co-Respondent No 2 to the post of RDD and remits the matter back to the Respondent.