

Det 41 of 2017

- *Seniority is not an overriding criterion in a selection exercise.*
- *Assignment of duty does not give an advantage to any candidate.*

Determination

This is a case concerning the appointment of Co-Respondent as FF.

Appellant's Case

Appellant based himself on the following Grounds of Appeal:

“(1) *On the ... interview for the said post was held at the LGSC. I am fully qualified and most senior. I have been assigned duties of FF for a period of 10 months continuously. I was not been appointed for the post.*

(2) *The former FF of the Municipal Council of ... was retired on ... As I am the most senior amongst TT I have been assigned duties of FF for a period of 10 months continuously. On the ... interview for the said post was held at the L.G.S.C, although that I am fully qualified for the post, I have not been appointed. I wish to point out that there has been only 2 candidates interviewed. Please be noted that no technical aspect has been questioned regarding for the post during interview. I consider that the decision made by the L.G.S.C. was unfair and unreasonable.” (SIC)*

On being cross-examined, Appellant agreed that he had been informed that assignment of duty did not give him a claim for permanent appointment.

Co-Respondent's Case

Co-Respondent averred in his Statement of Defence that he was appointed by Respondent after an interview and that he was found “*fit and fulfilled all the requirements for the said appointment*”.

He stated that the Appeal was devoid of merits and should be set aside.

Respondent's Case

Respondent's Representative solemnly affirmed as to the correctness of Respondent's Statement of Defence which provided that:

- Appellant and Co-Respondent joined service as AEL on ... and ..., respectively, and both were appointed EE on ...;
- Appellant was assigned the duties of FF from ... to ... following the retirement of the previous FF from the service on ... and he was informed that the assignment of higher duties would not give him a claim for permanent appointment as FF;
- Co-Respondent was assigned the duties of CEE from... to ...;
- The post of FF was advertised to qualified serving employees of the Municipal Town Council of ... on ... by way of Circular Note No.;
- According to the Scheme of Service, the post of FF is filled by selection from among TT/GG possessing:
 - (i) the Certificate of ...;
 - (ii) at least a TRT Certificate;
 - (iii) appropriate skills to lead and supervise workers performing different kinds of jobs; and
 - (iv) having at least 8 years' service as TT/ GG;
- 8 candidates, including the Appellant, submitted their applications and 2 candidates, including Appellant, were found eligible for the post and they were convened for interview on ...;
- Following the interview, the Co-Respondent was found more meritorious and suitable than the Appellant;
- The interview was based on the following criteria:
 - (i) sense of discipline/attitude;
 - (ii) qualifications;
 - (iii) personality;

- (iv) communication, supervisory and leadership skills in different kinds of jobs; and
- (v) Knowledge of the job;
- Seniority is not a determining factor in the selection process;
- Whilst carrying out the selection exercise, the Commission has given due consideration to Regulation 13(1)(b) of the LGSC Regulations 1984.

The Respondent stated that the appeal was devoid of any merits and should be dismissed.

Determination

In his Grounds of Appeal, Appellant did not say exactly why he deserved the post and Co-Respondent did not, except that he was more senior and had been assigned duties of FF for 10 months.

Both these grounds do not hold. Seniority is not the most important criterion and assignment of duty does not give any applicant an automatic right to be appointed.

Appellant was informed that he would not have a claim to the post when he was assigned duties of FF following the retirement of a FF in ... He confirmed this during cross-examination.

The appeal is set aside.