

If a candidate has a very high degree which is not relevant to a post, another one with a different less prestigious degree may get more marks if the qualification is more relevant.

This is an appeal from a MTR of the Ministry of ... against the decision of the Public Service Commission to appoint SOLIP in a temporary capacity. There were five appeals concerning the same selection exercise but all the appeals except the present one were withdrawn. The Tribunal has called a number of appointees as Co-Respondents but when the appeal was heard, some Co-Respondents had already retired.

Appellant's Case

Appellant's Grounds of Appeal (GOA) are as follows:

1. I am more qualified than some SOLIP appointed.
2. I am more experienced than some MTR appointed SOLIP.
3. More vocational qualifications
4. More professional qualifications (Post-graduate)
5. Some SOLIP selected are not even graduates.

He also claimed that he is hardworking.

He further stated that he hardly absented himself at work. He had a "*large spectrum of experience*" in the relevant fields.

He also stated that he had a degree from a well known University whereas the Co-Respondents had their degree from less prestigious Universities.

He had been a MTR for ... years and he considered this as "post degree service".

He expatiated on those GOA in a Statement of Case (SOC) and prayed that the Tribunal should quash the appointment of Co-Respondents and that a new exercise for the appointment of SOLIP be carried out.

Counsel for the Appellant stated that, while all the GOA were maintained, Appellant would focus on the issues of qualification and experience. His case would be that although Co-Respondent No.8 did have some years as MTR as per the requirement of the Scheme of Service for the grade of MTR, he did not exercise the duties of MTR. He stated that Co-Respondent No.8 had been appointed as CITCO of a Specialised Unit (SU) and produced a letter to that effect.

When Appellant deponed before the Tribunal, he insisted on the fact that he should have been amongst the first in the merit list.

He also produced a letter from the Ministry concerning the posting of MTR.

The Scheme of Service for MTRs was also produced and the Appellant stated that while all MTRs were working in a department and were doing administrative duties, Co-Respondent No.8 was working in a SU.

On being cross examined the Appellant gave the names of those who were being challenged by him on the grounds of qualification and those who were being challenged on the grounds of experience. This was important in order to analyse the markings which were being requested by the Tribunal under confidential cover.

He explained that if one had a degree and later obtained diplomas, these had greater weight than if he had the diplomas before the degree.

Regarding experience he conceded that this related to the number of years of practice as EDC.

He laid emphasis on the fact that his experience had been gathered over the years by working in different units in different areas.

Co-Respondents' Stand

All Co-Respondents except Co-Respondent No.22 decided to abide by the decision of the Tribunal.

Co-Respondent No.22 swore to the correctness of her Statement of Defence (SOD) in which she detailed her experience. She stated that neither a degree nor a diploma were requirements for the post of SOLIP. However, she had a degree and had several years of experience.

Co-Respondent No.22 made reference to a PSC Circular.

She stated that "*Appellant's degree is not directly related to the job*".

Co-Respondent No.8 who originally sent a SOD decided to abide by the decision of the Tribunal as the case which was against him had been withdrawn. He stated that he would follow the stand of Respondent on the general issues.

Respondent's Case

The Representative of the Respondent solemnly affirmed to the correctness of the Statement of Defence which referred to the Scheme of Service for the post of SOLIP.

The SOD was clear on the fact that "*it was not a requirement of the Scheme of Service that the candidates should hold a degree*" and she maintained that all the candidates who were convened for interview were qualified and eligible for consideration for the post of SOLIP.

It was also emphasized that experience and seniority are not the only criteria in a selection exercise. The Appellant's seniority and the fact that he had more experience than other candidates did not entitle him to claim automatic appointment to the post.

The Respondent maintained in its SOD that it had acted in all fairness and in conformity with the powers vested upon it by section 89 of the Constitution and the provisions of the Public Service Commission Regulations. All candidates were considered in a fair and impartial manner.

Respondent averred that the appeal was devoid of merits and moved that it be set aside.

The Representative of Respondent maintained that CITCO was not an established post and Co-Respondent No.8 still retained the post of MTR.

She also maintained that the fact that someone obtained a degree many years back did not necessarily mean that he had more “good” experience as compared to someone with a new degree with a different content and perspective. She said this was debatable. She also denied that there was a scheme of duties for the post of CITCO.

Determination

In an appeal before the Tribunal, an Appellant must prove his case based on his GOA.

Appellant has based his appeal mostly on his academic qualifications and he has also claimed that he is more experienced than the appointees.

In the Scheme of Service, academic qualification is not a requirement.

Regarding Co-Respondent No.8, the Appellant has tried to prove that he was not even eligible as he was not a MTR who reckoned the required number of years’ service in a substantive capacity.

The document produced by the Appellant did in fact show that the CITCO was to work for the Specialised Unit. However, the Ministry did issue a letter to inform them that, as from year ..., MTRs would be posted to other places. The Appellant then argued that Co-Respondent No.8 being responsible for a Specialised Unit was no longer a MTR and was therefore not eligible to apply for the post of SOLIP.

This cannot be accepted as Co-Respondent No 8 was still in his grade of MTR which was the requirement of the Scheme of Service. The rest were purely administrative arrangements made, which was confirmed by the Respondent who also informed the Tribunal that the PRB Reports had always made provision for MTRs to work in the Specialised Unit vice an allowance, yet no one among them expressed his/her interest.

The Tribunal sought from the Respondent the criteria, their weight and the markings as well as the qualifications of all Co-Respondents and their experience. These were provided under confidential cover.

An analysis of the list of qualifications shows that most of the Co-Respondents had 2 diplomas like the Appellant.

However some of them had degrees.

On analysing the criteria and markings, the Tribunal was surprised to find Additional Qualifications as a criterion specially in view of the fact that Respondent's Representative in the Tribunal had laid a lot of emphasis on the fact that there was no need to have any academic qualification to compete for the post. However, little weight was attached to this criterion.

On analysing the qualification of each of the Co-Respondents mentioned by the Appellant as opposed to his own qualification, the Tribunal noted that the markings on that criterion was far from being consistent. As regards the Appellant, he has a degree in MNL which was not really relevant to the post where emphasis is placed more on PGY than a degree per se.

In any case, even if the Appellant was given full marks under Additional Qualifications, this would not be sufficient to boost his overall marks to get him appointed.

Under the criterion Experience, marks were given to those who had more than ... years as HTR and ... as MTR. Only three candidates had a high score under this criterion which presumably covered more than just the number of years. The assessment under this criterion is always quite subjective.

Unfortunately Appellant did not score high marks under the criterion Additional Qualifications or even under the other criteria. Of course he was wrong concerning some of the appointees who also had degrees.

The Tribunal finds it unfair that emphasis is laid on the fact that academic qualification is not a requirement for eligibility but additional qualification is a criterion without it being mentioned in the Scheme of Service that this would be an advantage. The Tribunal recommends that in the future the Respondent should be more transparent regarding additional qualifications which could impact on the overall marking of candidates.

The Respondent may also consider in the future to focus its assessment on fewer criteria than spanning over a large number of criteria which is difficult to assess during the short time of interview of each candidate and may lead to inconsistencies.

However the Tribunal does not find that the Respondent has erred in the selection exercise.

The appeal is set aside.