

- **A candidate who was on a merit list which was no more valid would have no priority of consideration.**
- **Seniority is not a prime consideration in a selection exercise.**

The Appellants felt “left behind” in the appointment to a higher post as their contemporaries had been promoted to higher positions and those who were junior to them were also appointed. Appellants rested their grounds on the fact that they were more qualified, more experienced and more senior than Co-Respondents and had no adverse reports.

Respondent argued that the appointment was by selection as per the Scheme of Service, irrespective of the seniority ranking of the candidates and cited PSC Regulations 14 (1) (c) which puts “qualifications, experience, merit and suitability for the office in question before seniority”. Respondent rebutted the averment of Appellants that appointment for a higher post in a previous period was done on the basis of seniority and highlighted that the Scheme of Service provided for the post to be filled by selection and seniority did not have prime consideration. It was also argued that one of the Appellants had not furnished accurate and correct information about her qualifications in her application, a fact with which Appellant agreed. Disagreement that one of the Appellants was on the merit list in the selection exercise for a prior exercise was also expressed and it was stressed that, even if Appellant was on the merit list, it would have no effect at the time of selection in the present period as the merit list was valid for only two years. Respondent also pointed out that the testimonial from one of the Appellants was not signed by the R.O of the Ministry and was not retained by Respondent. The documents of the Appellants had been considered in the recent and

previous appointment exercises but other candidates were found more deserving.

The Tribunal has determined that seniority is not the prime consideration when there is a selection exercise. It is a common practice in the context of public sector reform that appointments are made mostly by selection. Reference was made to PSC regulations 14 (1) (c) of 1967 amended under Government Notice No. 177 of 2010 to include “suitability for the office in question” but seniority still has no precedence over the other criteria. For the LGSC it is section 13 (1) b of LGSC Regulations 1984.

The Tribunal wondered how suitability of candidates is determined and if and through what means Ministries or Departments or the Respondent have implemented the PRB 2008 recommendations. It was also pointed out that the advisor, normally from the Ministry or organisation can be of some assistance but he is not the immediate supervisor of the candidates and his knowledge of the candidates may be limited and he may not be conversant with the intrinsic characteristics which are required to make the candidate a likely candidate for the higher position.

The PRB 2008 recommendations could have remedied this lacuna but they had not yet been implemented. The Tribunal is sceptic as to how the criterion of suitability for the office is determined. The fact that Appellants often express doubts as to whether a fifteen minutes interview is adequate to assess a candidate’s potential and suitability is understandable. The issue of duration with regards to the interview has been considered as contestable and the yardstick of suitability further blurs the situation, according to the Tribunal. It was determined that Appellants had failed to demonstrate that they were

more deserving than Co-Respondent. Respondent had scrupulously followed the Scheme of Service. The appeal was set aside.