

Det 18 of 2012

If an appointee does not meet the requirement of the Scheme of Service, the Tribunal can quash the decision of Respondent.

In this consolidated appeal, Appellants have contested the decision of the Respondent to appoint Co-Respondent on the ground that the mode of promotion had been changed from selection to promotion based on seniority, contrary to the recommendations of the PRB Report 2008. All workers in the same cadre have been excluded from the exercise. The revised Scheme of Service is contested. Despite objections raised by the Trade Union, the revised Scheme of Service was applied, though it was not in line with the PRB Report 2008 which had been approved in *toto* by the Government.

Respondent submitted that since Co-Respondent was the seniormost in the list of candidates, her appointment was judicious on the ground that seniority was the yardstick in the appointment exercise. Respondent averred that only the Co-Respondent had been assigned duties to the post in the past and at the time of the appointment, she had a longer period of assignment of duties and consequently had greater experience.

The Tribunal however, has no jurisdiction to probe into the process of revision of the Scheme of Service and its content and is bound to rely exclusively on the prescribed Scheme of Service at the time of appointment. Therefore, the Tribunal is limited and cannot question the Scheme of Service. Further, the Tribunal cannot adjudicate on the legality of the Scheme of Service. Some Appellants who were debarred from consideration did not have a leg to stand on as they did not fit into the category clearly stipulated by the

Scheme of Service. Nevertheless, in the course of the Hearing, the Tribunal learned that the Co-Respondent might not have met a key requirement of the Scheme of Service in that she did not reckon the five years teaching experience following her graduation, as mandated by the Scheme of Service.

The representative of Respondent was unable to enlighten the Tribunal as to the exact date when Co-Respondent's appointment started. Explanations from the Ministry of Finance however revealed that Co-Respondent did not meet the required number of years of teaching experience. In the light of information provided to the Tribunal by the Ministry, the Tribunal has found that the PSC erred in its decision to appoint Co-Respondent since she did not meet the number of years of teaching experience after graduation as required by the Scheme of Service which is binding. The decision of Respondent to appoint Co-Respondent was therefore quashed and the Tribunal remitted the matter back to the Respondent.

