

Det 22 of 2012

**A merit list is still valid for two years and Respondent has the prerogative to have recourse to it.**

The Appellant put emphasis on the fact that the Respondent should not have appointed Co-Respondent as he did not possess all the requisite qualifications for the job, namely at least five years experience in the field. He also contested that fact that a fresh interview was not carried out before filling the post and the Respondent relied on a list which dated back to more than a year, thereby depriving officers with better qualifications, experience to compete anew for the job. Under cross-examination, it was put to the Appellant that even if he was heard anew by an interviewing panel, there was no guarantee that he would have been selected for the post, to which he agreed. Appellant disagreed with the assertion that the duties of the Co-Respondent were more diverse than his as there were no specifications of outdoor supervision in the list of responsibilities of the job occupied by the Co-Respondent. He also disagreed with the suggestion that following the interview, Co-Respondent was found to be the best candidate.

Respondent averred that there was no reason to conduct an additional selection exercise as it was the prerogative of the Respondent to determine the procedure to be followed regarding appointment and to refer to the merit list, which is normally kept for two years and was still valid. It was maintained that the Co-Respondent had the relevant experience for the job and was well chosen

for the post. Under cross-examination, Respondent explained that, before the interview the Responsible Officer had sent a report to the Respondent confirming that the Appellant had the relevant number of years of experience. The Responsible Officer had however not been called as a witness.

The Co-Respondent volunteered to depone and averred that since 1995 he had been appointed in his job which had given him the possibility of acquiring the skill of supervising workers both inside and outside premises under his control. He stated that one needed to have leadership qualities as well as experience.

The Tribunal determined that it was clear that the merit list was still valid at the time of the selection exercise and that the Respondent had the prerogative to decide whether it will conduct a new selection exercise or rely on the existing merit list. It was also clear that the Co-Respondent had experience in supervising officers both inside premises and outside and he had the required number of years of experience and given that he was senior to the Appellant on the merit list, the Tribunal found no reason to delve further into the matter. The appeal was dismissed.