

- **Time spent in a statutory body in the related field can be considered as good experience.**
- ***A lapsus calami* cannot jeopardise an applicant's chances.**

In this consolidated appeal, the Appellants averred that they deserved to be appointed on the grounds that they were fully qualified for the post. They claimed that they had acquired long experience in the Ministry, were senior to the Co-Respondents and had moved to various sections of the Ministry's Department. Their experience was more wide-ranging contrary to the Co-Respondents. Further, they stated that one of the Co-Respondents spent five years in a statutory body and he was thus not in touch with what was going on at the Ministry and in the field of work. They also highlighted that one of the Co-Respondents had stated in his Statement of Defence that he was performing certain duties but which, according to Respondents, was not correct for the period he was posted elsewhere. They equally expressed some doubt on whether it was the same curriculum vitae which was before the Tribunal and which had been submitted to Respondent. The Appellants averred that some of them had been assigned the duties related to the post on an on-and-off basis and the Co-Respondents were working under their supervision on such occasions.

The Respondent averred that the Appellants and the Co-Respondents were eligible for the post. The post was filled "by selection from among officers ... reckoning at least two years in a substantive capacity in the grade and having (a) sound knowledge in ... policy, planning, management, research and development; and (b) good administrative, organising and supervisory skills". The Respondent explained that the selection was based on the

requirements of the Scheme of Service and Regulation 14 of the PSC Regulations. The candidates for the post were assessed on the following criteria: sound knowledge in ... policy, experience in the actual post, experience in the post applied for, personality, communications and organising skills, supervisory skills, knowledge in ... policy, research and development and additional relevant qualifications.

Seniority was not an overriding criterion for appointment and the fact that some of the Appellants were called upon to perform the duties of the post would not give them any claim for substantive appointment. On the other hand, performance at the interview was quite relevant. The Respondent submitted that the selection exercise was fair, all candidates received equal treatment and they were interviewed for about ten to fifteen minutes which was adequate for assessing them. The selection panel took into consideration all the information disclosed by the candidates when they were assessed, including their qualification and experience.

The Co-Respondents averred that they had additional relevant qualifications which made them more appropriate for the job and they claimed that their qualifications were relevant to the specific sector. They averred that they had wide experience working for the Ministry and for other organisations related to the specific field. One of the Co-Respondents rebutted the averment of Appellants that his five years at a statutory body had deprived him of experience which he would have acquired had he been at the Ministry. He averred that over there he had higher responsibilities and was closely involved with the management of the Institution, thus enhancing his managerial skills. They further averred that the Appellants were given short assignments of duties for administrative convenience and this was done was on the basis of

seniority, resulting in the Co-Respondents working under the supervision of the Appellants for such short periods. This should not give the Appellants any claim for substantive appointment and they submitted that the selection was fair and they deserved the appointment.

The Tribunal determined that the element of seniority is not the determining criterion in a selection. It comes after the other criteria which carry more weight. In the PSC Regulations 1967, it is said at Regulation 14(1) (b) that for appointment or promotion of public officers the criteria are *“qualifications, experience and merit before seniority in the public service”*. However, in the PSC Regulations 2010, this part has been amended and became Regulation 14(1) (c) to read as follows *“in the case of officers serving in the public service, take into account qualifications, experience, merit and suitability for the office in question before seniority”*. This amendment to Regulation 14 is important as it shows the importance that is given to the element of suitability. It has been found appropriate to bring this upfront even if Regulation 19 of the PSC Regulations says clearly that *“No appointment or promotion to a vacancy in the public service may be made before the Commission has determined the suitability of the person concerned”*.

The Tribunal does not share the point of view of the Appellants that the time spent by one of the Co-Respondents at a statutory body deprived him of experience in the specific sector. As the Co-Respondent said, he was working in a wider sphere of activities which provided him an insight in the way an institution operates and that enhanced his management skills. This also allowed him to interact with other actors. The Tribunal considers the fact that one of the Co-Respondents had put incorrect information in his Statement of Defence and, presumably, in his application form to Respondent as a *lapsus*

calami that cannot be fatal to his case. This is because what he acquired in terms of management skills at another institution has on a balance of probabilities outweighed the losses in dealing with such technical matters at the Ministry. The *lapsus calami* cannot be said to have strengthened his case in any way.

The Tribunal had not given much heed to the veiled insinuations about the academic qualifications of some of the Appellants as it was assumed that these University degrees were scrutinised and found correct by Respondent at the time of the interview, and even when they were recruited a long time back. The fact that the Appellants were fully qualified could not be disputed.

In connection with the assessment exercise, The Tribunal sought further information in writing from Respondent to ensure that there had not been unfairness done and the apprehensions of the Appellants be put to rest. The Tribunal wanted here to place on record that by making all the information sought by the Tribunal available, the Respondent had given a good chance to the Tribunal to look at specific matters raised by the Appellants. The Co-Respondents had raised some doubts about the relevance of her post-graduate degree which was in a field other than the field related to the post. This had not played against her and her post-graduate degree was given due recognition in the assessment. The Appellant could not say therefore that Respondent had not taken her additional qualification into account. The Appellants also averred that they had more experience than the Co-Respondents in the operational aspects of the specific sector as the Co-Respondents were more in the research and management fields. The Tribunal was satisfied that this aspect had been taken on board by the Respondent. What brought the demarcation between the Appellants and the Co-

Respondents in the final outcome of the selection exercise was their respective assessment on the other criteria, basically those related to the policy and strategy aspects on which the Co-Respondents performed better. The Tribunal conceded that it was no easy task for any panel to choose among the well-qualified technicians of the specific department.

The Tribunal did not find grounds to say the Respondent erred in any way in the selection exercise. The appeals were set aside.