

**An applicant cannot be said to have acquired experience during a period when he was interdicted even if finally he was reinstated in his job.**

The Appellants averred that they were not called for interview and only found out later that one of their colleagues was appointed. They conceded that they did not meet the requirement of the Scheme of Service which said that the candidates should “reckon at least five years proven experience in the supervision of field workers performing outdoor duties”. They stated before the Tribunal that they were not asking to be appointed. Their only concern was that those who were called for interview were also lacking in terms of the five years of supervision experience and yet they were called for interview. And they were deeply convinced that the Co-Respondent did not cumulate the five years of supervision as he was interdicted for long periods. They even challenged the averment that he was doing supervision duties. They also referred to the case of another colleague who was working with them and who, according to the Appellants, was not seen to be doing any supervision duties but was called for interview.

The Respondent averred that appointment to the post was by selection and that the Appellants did not have the five years experience in supervision which ousted them from the selection exercise. This was explained to them when they wrote to their Responsible Officer as to the reason why they were not called for interview. The Respondent averred, that according to the R.O, the Co-Respondent met the requirements of the Scheme of Service and that there was nothing wrong in his appointment.

The Co-Respondent did not attend the Hearing but had intimated to the Tribunal that he would abide by its decision.

During the Hearing, it became abundantly clear that the Appellants’ concern was correct. In fact, the representative of the Respondent conceded in cross-examination that the Co-Respondent was interdicted on two occasions. The Co-Respondent was, however, re-instated in his job on both occasions as from the date of his interdiction. In both cases also the Respondent, when it waived the

interdictions, ordered the RO to initiate action under regulation 42 of the LGSC Regulations 1984 against the Co-Respondent, which provided for a lesser sanction. In other words, the R.O was to continue with disciplinary proceedings in lieu of interdiction. It stands to reason, therefore, that the Co-Respondent could not have cumulated five years supervision experience during the relevant period following these two long interdictions. At the Tribunal's request, Respondent subsequently confirmed in writing after the Hearing, that the Co-Respondent *"was not remunerated when he was performing the duties of a supervisory nature..."*

The Tribunal is not bothered with the disciplinary proceedings *per se*. But it is a matter of concern however that the decision to reinstate him the second time took almost two years. It could not in any way amount to "proven experience".

The Appellant was the subject of disciplinary proceedings as explained by Respondent itself, and yet he was called for interview and obtained the job. In this connection, the Tribunal determined that ROs must be more careful when sending letters to certify facts which have not been properly verified.

The Tribunal is not convinced about the explanation of Respondent as to why the Co-Respondent was called to the interview only to verify whether he had supervision experience as that candidate had claimed. The Tribunal drew the attention of Respondent to this kind of decision which may seem very negative.

Since Appellants did not ask to be appointed, the Tribunal did not have to pronounce itself on their averment that they were not called for interview.

The Tribunal, as per Section 8(4) Of the Public Bodies Appeal Tribunal Act 2008, quashed the decision of Respondent to appoint the Co-Respondent to the post.