

Article 14 of PSC Regulations relates to the need to maintain a high standard of efficiency. This means that the best candidates must be appointed.

The Appellant lodged an appeal as he had not been selected for the post. In his grounds of appeal he stated as follows:

“I have not been selected for the post of ... though I possess the required qualification and experience.

I have (34) years of service in the above mentioned department. I have often replaced the incumbent in the department before. It causes more prejudice to me, taking into consideration the long service. I have followed several courses in relation with the post...”.

Appellant deponed before the Tribunal and affirmed as to the correctness of his Statement of Case. He stressed on the fact that he would retire in six years and no recruitment exercise had taken place during the past seventeen years. He emphasized on the fact that he had more years of service than many of those appointed to the post. He stated having worked as ...for 17 years and having very often acted as ... despite the fact that he was not given any allowance. He stated being the holder of numerous certificates. He also produced a certificate from a well known organization and he averred that he carried out sensitization campaigns through numerous organizations and that all of this related to the job. Therefore, based on his seniority, his years of experience and his numerous aptitudes, he maintained that he should have been selected for the post. He emphasized that he had always done his work eagerly.

During cross-examination, he stated having replaced the ... on numerous occasions. He explained that he was initially working at the ... then he was shifted to different ministries. His years of service with one of the ministries amounted to 18 years. He maintained that, given the good report he got from one of the ministries, he deserved the post. Appellant maintained all along that he never got any assignment of

duty though he had been replacing the ... on numerous times and sometimes exceeding twelve days when the ... had gone on vacation leave. He had no official document to that effect as the replacement was not official.

Respondent did not agree that the courses followed by Appellant were relevant to the job as this was not in the Scheme of Service, even if such training could be useful to attend to minor tasks.

Respondent averred that the Scheme of Service stipulated that appointment to the post was by selection and not by promotion. There were 15 candidates who were interviewed and a merit list established. From this list, eight of them were appointed.

The criteria used for the selection were; (1) qualification (2) job knowledge and experience (3) personality /aptitude and (4) seniority. Four of the eight appointees sat for the S.C./G.C.E. 'O' level examinations and, of the other four appointees who did not attempt the S.C. / G.C.E. 'O' level examinations three had done secondary level schooling. A selection had taken place as per the Scheme of Service.

The filling of the post by selection is not disputed. This is according to the prescribed Scheme of Service.

The fact that Appellant had been working for 18 years at the Ministry after he left the ... is also not disputed.

The bone of contention was the way the assessment of candidates had been done which left the Appellant dubious as to whether the Respondent had taken on board all the factors.

Appellant had not contested the choice of Respondent concerning the four appointees who attempted the S.C./G.C.E. 'O' level. However, the information concerning three of the remaining four appointees who had secondary schooling needed to be highlighted. The Tribunal called them A, B, and C. The particulars of these three appointees were examined. Now when these were juxtaposed with the particulars of Appellant, it was found that Appellant had 18 years service in the Ministry,

had studied up to Form IV, had been replacing the ... many times for short durations. On three occasions, when the incumbent was on long leave, Appellant stepped in his shoes but was not given any official assignment of duties. Respondent only said that the practice to give assignment of duties against payment of an allowance for temporary vacancies was started in 2009 but Appellant may have been inadvertently missed out on account of the decision being recent. It is noted, however, that Appointee B was given assignment of duty officially at the beginning of the year 2009 and was paid an allowance.

On “qualifications”, the Tribunal found Appellant better than B and C. On “Job knowledge and experience”, Appellant has been replacing as ... on three long periods, and many on and off occasions, while A, B, and C have done it only once. On “personality/aptitude”, Appellant said that being committed was very important in that job where he is called upon to interact with youth. His involvement in the social activities and helping the youth, which was not contested by Respondent, was certainly very important to weigh in his favour for this criterion. On “seniority”, the length of service of Appellant far exceeded those of A and B.

It was quite clear that as far as A, B, and C were concerned, they did not have an edge over Appellant. As to why they have been appointed, the Tribunal is puzzled. The Tribunal also found it strange that Appellant was not officially assigned duties on three occasions when the incumbent went on leave. This could have played against him at the interview as he had no evidence to show that he actually did the job of... . Respondent averred that applicants were not required to show proof of having performed the duties of ... at the interview as such information was retrieved from their personal files and Appellant had therefore not been penalised in the selection exercise for not having been paid an allowance for performing the duties of ... There was nothing in Appellant’s file as he was not officially assigned the duties of ... and there was only a verbal “arrangement” for him to do the work.

Respondent had been harping on the point that there had been a selection exercise. This Tribunal did not want to substitute itself for the Respondent in an

appointment but the duty of the Tribunal is to ensure that the candidates are given a fair and equal chance. It was also important that those appointed were the best for the job. It is apposite to quote Article 14 of Respondent's regulations itself which says that "In exercising its powers in connection with the appointment or promotion of officers in the public service, the Commission shall have regard to the maintenance of a high standard of efficiency in the public service". There is no doubt that Respondent must have in mind the efficiency element which is conditional on the high morale of the public officers. It will not happen if officers perceive, rightly or wrongly, that their legitimate expectations are thwarted.

The Tribunal was of opinion that Appellant had not been given a fair chance by Respondent. The appeal was allowed.