

Det 13 of 2013

When an examination takes place, no marks are given during the interview regarding qualification and experience as these have already been assessed.

The Appellant challenged the decision of Respondent not to have appointed her in a post after an appointment exercise carried out and in which eight officers, all Co-Respondents in this case, were appointed. Before the Tribunal, Appellant explained that she had been assigned duties in the past in a higher post in the same hierarchy and she had reckoned some ten years in the service. She highlighted that she had relevant qualifications with regard to the post and she explained having studied so that she could enhance her career prospects in the relevant field.

Under cross-examination, she conceded that the advertisement stated clearly that only 4 years of service was required to be eligible for the post. She also conceded that all relevant documents and criteria were given to the interview panel and that she sat through a written examination in relation to the selection process. She was aware that, as one of the 36 candidates selected for interview after the examination, all candidates, including herself, had equal chances of being selected, and that the decision of the panel rested on her performance at the interview. She was aware that appointment was made based on a selection exercise.

It was put to Appellant that the appointment was not a grade to grade promotion to which Appellant also conceded. Appellant was also aware that her assignment of duties that lasted less than three months did not give her any entitlement to the post as this was clearly stated in the letters of assignment sent to her. It was also put to her that during her second assignment, she was only assigned tasks that were within her capacity to perform. However, according to Appellant, it meant that she acquired experience in so doing. It was also put to Appellant that she was assigned duties for administrative convenience and that it was not actingship. It was finally put to Appellant that all selected candidates were only appointed to the post after being interviewed and Appellant did not agree with this.

The Respondent, through its representative, maintained all the averments in the Statement of Defence, more particularly that all the candidates who passed the written examination were eligible for the post, that all the relevant criteria were taken into account during the selection process and that assignment of duties did not confer any greater weightage to the Appellant.

Under cross examination, he denied that those having more years of experience than the 4 years minimum requirement had an advantage over the others. A panel was set up to decide this issue and all those convened to the interview with 4 years or more experience had equal chances. Nowhere in the advertisement or Scheme of Service was it specified that more weightage would be considered for the years of service. The experience and years of service were normally assessed in the selection exercise and examination. Experience in the same field for a number of years would also have been taken into consideration

at the interview. Having been assigned duties on two occasions did not give the Appellant any advantage as same was always done on the basis of administrative convenience. It would be most unfair to take this into consideration as it would disadvantage those who did not get this opportunity.

It was put to the Respondent that the relevant qualifications of the Appellant would give her a greater leverage than other candidates and the Respondent maintained that this criterion was taken into consideration by the panel as all this information was submitted to the panel. The panel decided whom to appoint and since the Respondent's representative was not in the selection panel, he was not aware of the qualifications possessed by the other candidates. Referring to Co-Respondent No.4, it was put to the Respondent that Appellant was more qualified and was therefore more apt for the job. The Respondent maintained that this was assessed and taken into account at the interview. However, the Respondent conceded not being able to say whether all candidates were asked the same questions.

The Scheme of Service for the post was prescribed and became effective as from ... The fact that the post is filled by selection and not by promotion is, therefore, not disputed.

In this appointment exercise there were two hurdles, namely a written examination and an interview. The Appellant, like all the candidates, had to go through this process and since every candidate had to tackle the same questions they were on an equal footing and cannot put in question the outcome of the written examination.

As to the second limb of the selection exercise, there was an interview and the Respondent's selection panel had to assess candidates who passed the written examination. The Appellant claims that she is better qualified than the Co-Respondents. Since the Appellant had attached her qualifications to her application form, undoubtedly the Respondent must have taken this into account. From information provided to the Tribunal under confidential cover, the Tribunal was satisfied that the Respondent had all the information required to proceed with a selection.

The Tribunal also found, after perusing the information shared by Respondent, that the marks obtained at the written examination were added to the marks for performance at the interview to arrive at the final rating. No marks were given for qualification, additional qualifications and experience as an examination was carried out. An expert in the field related to the post assisted the interview panel for the selection exercise. The Respondent has acted as per its Regulation 17(1) which allows it to "*determine the procedure to be followed in dealing with applications for appointment to the public service, including the proceedings of any selection board appointed by the Commission to interview candidates*".

The Appellant, as is the case very often before this Tribunal, relied on the fact that she had been assigned the duties related to the post to say that she had more experience. However, the Appellant herself in her Statement of Case conceded that such assignment of duties "*does not give the assignee any claim to permanent employment to the post assigned to*".

The Appellant had made reference to LGSC Regulation 22 (3) which says that *“In considering recommendations for acting appointments, the Commission shall apply the standards prescribed in regulations 13, except that consideration may also be given to the interest of departmental efficiency”*. The Respondent rebutted this to the effect that certain categories of Officers are posted to different local authorities and Regulation 22 does not necessarily apply. The assessments are made by different Responsible Officers and it may be difficult to assess the relative merits of these officers who are doing different jobs in the various local authorities.

After taking everything before the Tribunal into consideration, the Tribunal found that the Respondent had not erred in its appointment process. The appeal was therefore set aside.