

Relevant experience on the job and knowledge of administrative and technical matters can give a candidate an edge, however slight, over others especially in a highly competitive selection.

The Appellant challenged the decision of the Respondent to appoint the Co-Respondent, also formerly an officer in the same grade as himself, in the same Ministry, as Appellant, for the higher post of

The Appellant averred that he joined the service in 1976 and he was the eldest among candidates for the post. He claimed having higher qualifications than the Co-Respondent.

The Appellant highlighted his experience and his participation in various activities and projects.

The Appellant claimed that his higher qualifications should have been taken into account as the duties of the post required high aptitudes in a specific field as it involved inter alia the planning and execution of policies, the co-ordination of programmes, the monitoring of the implementation of new projects and the introduction of new technology. His qualifications should have given him an edge over the Co-Respondent.

The Appellant found that the decision of the Respondent was “unfair, unjust and lacked objectivity”.

The Respondent averred that the post was filled by selection as per the Scheme of Service. The vacancy was advertised from among qualified officers of the Ministry. There were 10 candidates, of whom seven were found eligible. They were convened for interview and subsequently the Co-Respondent was offered appointment.

The Respondent did not dispute that all candidates called for interview were qualified for the post as they possessed the required qualifications as laid down in the Scheme of Service. All information regarding qualifications, training courses followed

and work experience in their application forms had been given due consideration by the selection panel, which was adequately represented. The Appellant was not selected.

The Respondent stated that the appointment was made on the basis of the requirements of the post, the criteria of selection established, the requirements of the Scheme of Service, performance at the interview and the provision of PSC Regulation 14 (1) (c). Moreover, in exercising its powers in connection with appointment or promotion in the public service, the Respondent had, as laid down in regulation 19 (6) of the PSC Regulations, determined the suitability of the selected candidates for appointment to the post. According to the Respondent, as an officer acceded to higher echelon in the professional cadre, the administrative and managerial aspects became more important than the technical aspects. This applied to the concerned post. The Co-Respondent was ranked first in the combined list of applicants while the Appellant ranked 5th.

The Respondent averred that the appeal had no merit and moved that it be set aside.

The Co-Respondent averred that there was a proper selection exercise and she was fully qualified for the post. She had been assigned the duties related to the post on ten occasions, cumulating to two years in the post. As such, she gained experience in the post, which enhanced her work experience in management and administration and made her more suitable for appointment. She highlighted the fact that she had relevant qualifications related to the post. The Appellant was appointed to the present post they both occupied nearly two years after her.

The fact that the higher post was filled by selection was clear from the Scheme of Service for the post. It was not disputed that both the Appellant and the Co-Respondent were qualified for the post and met the eligibility requirements as per the Scheme of Service.

At one point, there was some doubt as to the choice of the representative of the Ministry on the selection panel. The Appellant stated that it had always been the practice for a technical person to sit on such a panel and that for this selection exercise,

the advisor from the Ministry was a high ranking administrative officer. He found it not fit for such an officer to be on a panel for a selection for a highly technical post. However, it was noted that the advisor was conversant with the subject matter, being himself holder of a relevant degree in the field and being employed in the Ministry. The fact that all the candidates were interviewed by the same panel ruled out any qualm that the officer could have acted in a way which was unfavourable to the Appellant in his assessment of the candidates.

The whole issue is whether the selection had been fair. On the one hand, the Appellant averred that he had higher qualifications which made him more suitable for the post as there were policies and projects which required high technical knowledge and skills. On the other hand, the Respondent and the Co-Respondent claimed that the post required administrative and managerial abilities and for which the qualifications of the Co-Respondent made him more suitable for the post. The fact that the Co-Respondent had been for a total of two years on an on-and-off basis assigned the duties related to the post gave her an edge over the Appellant as she had in the process acquired experience in management.

The issue of assignment of duties and experience has been a double-edge instrument in appeals before the Tribunal. Respondent has often said that assignment of duties is done on grounds of administrative convenience and does not give the incumbent any claim for substantive appointment when a vacancy arises. This is why assignment of duties is given to the seniormost officer until such time that a substantive appointment is made. In the present appeal, the Co-Respondent was the most senior in the combined list, the concerned sector having many Divisions, and was therefore given assignment of duties as and when the occasion arose. The Appellant who was 5th on that list was not given such assignment of duties. However, at other times, Respondent has used the argument that an officer has been assigned duties for such and such period and this had given the officer the experience which the post required. This left the Tribunal in a quandary as to how to treat assignment of duties and how the Respondent itself addressed the issue in each case. The only way the Tribunal could

do this is by going through the marks sheets that the Respondent made available to the Tribunal under confidential cover.

In the present appeal, the Tribunal needed to see the weightage given to technical capabilities and to managerial/administrative skills. According to what had been averred by the parties, the balance would tip in one sense or the other, depending on the relative importance of these two attributes. Here again, the only way to do this was to go over the marks sheets.

The Tribunal, therefore, asked the Respondent to give it the relevant confidential information. According to information provided to the Tribunal by the Respondent, the candidates were assessed on:

- Relevant qualifications
- Relevant experience
- Knowledge of ICT
- Personality
- Communications and Leadership skills
- Organising and administrative skills
- Policy formulation/planning and supervisory skills
- Knowledge of job contents
- Aptitude

The Interview Panel had found the two candidates equally good for most of the criteria. In fact, in terms of overall markings, the two candidates were quite close. What made the difference was on relevant qualifications and experience. On the relevant experience criterion, the Co-Respondent was marginally found better than the Appellant. Even if additional qualifications were not required, the degree in management of Co-Respondent carried slightly more marks, even marginally, over the higher qualification of the Appellant. However, the relevant qualifications criterion itself was given a low weightage, presumably because it was not a requirement of the Scheme of Service.

The other issue that was canvassed before the Tribunal was relevant experience and knowledge of job contents. The Co-Respondent got higher marks. It was said at the Hearing that the Co-Respondent had been assigned duties for some two years and this had given her a better understanding of the duties and she also acquired experience on the job. On cross-examination from Counsel for the Co-Respondent, the Appellant conceded that this was so. In reply to Counsel for the Co-Respondent, the Appellant also agreed that the Co-Respondent had more experience on administrative and technical matters

The Tribunal, therefore, found that the assessment of the Respondent seemed fair and was in line with what had been averred in Respondent's Statement of Defence and what was stated at the Hearing.

The Tribunal had not found any reason to question the way the selection was done and which could give any impression of unfairness or omission to take into account relevant matters.

The appeal was set aside.