

If Appellant had been fined by a court of law regarding a case related to his employment, and been reprimanded for this offence, this may have a negative impact during an interview.

Seniority and actingship will not be determining factors during a selection exercise.

The Appellant is challenging the decision of the Respondent to appoint the Co-Respondent to the post of...

The vacancies in the post were advertised on ...among serving officers of the Municipality of... There were 14 candidates, including the Appellant, who were found eligible for the post and they were convened for interview.

Following the interview exercise, the Respondent appointed six of the candidates, including the Co-Respondent, to the post

The Appellant has stated in his Grounds of Appeal that he is appealing against the appointment of the Co-Respondent and not against the other appointees.

The Appellant's Case

The Appellant averred that he was appointed in a related post and had been assigned the duties of the post on two occasions. The Co-Respondent had been in the same related post for only some six years.

He accepted having attended the interview for the appointment for the post and that for selection, seniority is not the only criterion.

Under cross-examination, he admitted having been assigned duties in the post on an occasional basis and that it was not full time.

He stated that, having been appointed in the related post many years before the Co-Respondent, who was only appointed after him, he should have been the one to be appointed to the post. However, he could not say whether because he was in the related post for a longer period, it meant he was better than the Co-Respondent. He conceded having committed an offence related to his post. He also conceded having been reprimanded.

He further accepted that Co-Respondent had the same qualifications as himself.

Respondent's Case

The Respondent's representative solemnly affirmed as to the content of her Statement of Defence which gave the chronology of events leading to the appointment to the post.

The Respondent did not contest that the Appellant had been appointed in the related post. The Co-Respondent was fully qualified for the post and, since appointment was by selection, seniority was not a determining factor. The Respondent drew the attention of the Tribunal to the fine inflicted on the Appellant . This led to a reprimand in accordance with Regulation 36 of the LGSC Regulations 1984.

The Respondent submitted that it had followed the procedures scrupulously and the six appointees, including the Co-Respondent, were appointed following a selection exercise which was duly carried out according to

the criteria laid down in the Scheme of Service. The Respondent moved that the appeal be set aside.

Co-Respondent's Stand

Co-Respondent was absent and had, on a previous occasion, declared to the Tribunal that he would leave the matter in the hands of the Tribunal.

Determination

This is a case of appointment by selection. There has been an interview and the best candidates were selected.

In fact, during the course of the hearing, it was put to the Appellant that the fact that he was senior to the Co-Respondent was not a reason for him to be appointed and he said that he knew this principle very well. There are other criteria as per the Scheme of Service which had to be satisfied.

Similarly, the Appellant has no claim for permanent employment simply because he had been assigned the duties of the post on two previous occasions.

Also, we bear in mind the fact that the Appellant was fined by a court. He was reprimanded following this criminal case and this was not in his favour at the selection stage.

The Appellant had no grounds to challenge the appointment of the Co-Respondent.

The appeal was set aside.