

- . During an interview, if all candidates have the relevant qualifications as per the Scheme of Service, they must be assessed under the other criteria chosen for the exercise.
- . Actingship in a job does not per se give any claim to being appointed in that job.

The Appellant, an employee of the Ministry of... , is challenging the decision of the Respondent not to appoint him in the post applied for.

Appellant's case

Appellant filed the following Grounds of Appeal:

“(i) actually carrying the post of acting ... and since six years

(ii) having drawn allowance of acting ... for one year

and then he set out his qualifications.

The Appellant claimed that he deserved to be appointed as he was more qualified and has performed the duties of the post for the past six years.

According to the Appellant, he performed his duties well and his work was well appreciated by his supervisor. He contended that the incumbent to the post must be able “to write and read plus able to take statement on some occasion”. Given that he had better qualifications which none of the Co-Respondents, except one, had, he was better suited for the job. The Appellant conceded that he was not aware of the assessment of the supervisors as to the quality of the work of the Co-Respondents. He was also not aware if the Co-Respondents had any adverse reports against them. But he stated that one of the Co-Respondents had

an eyesight problem and he was still appointed. He admitted during cross-examination that he was not saying that the Co-Respondents did not deserve to be appointed.

Respondent's Case

The Respondent stated that the post was filled by selection by the Ministry under delegated power. There were 7 vacancies and these were advertised. There were 96 candidates and 90 were found eligible. They were called for interview on three different days. The 7 Co-Respondents were appointed. The Appellant was eligible for the post and his application was duly considered. However, he was not selected for the post.

The Respondent denied that the Appellant had been doing the duties of the post for the length of time that he averred. According to records available at the Ministry he was assigned the duties only for 6 months. It was possible that he was asked to do the job on-and-off in a non-official capacity for which there was no record. The representative of the Ministry, who was also a member of the Selection Panel, could not understand why on the pay-slips produced by Appellant it showed that he was getting an allowance for performing duties up to a later date. Some of the Co-Respondents had also been replacing without being given official assignment of duty.

The Respondent averred that the fact that the Appellant was performing the duties of the post did not give him any claim for permanent appointment to that post.

The representative of the Ministry maintained that all the candidates had good reports, including the Appellant. The Appellant could have better qualifications than the Co-Respondents but they were all eligible and there were no specific requirements as to qualifications. They were all assessed by their performance at the interview, their personality and experience of work. An inspector was also sitting on the selection panel to ask “technical” questions.

The Respondent averred that there was a selection exercise as per the Scheme of Service and all procedures had been followed.

Co-Respondents’ Case

Co-Respondent No.5 stated that during his years in service he also performed duties of the post as and when required and was never paid. He further said that the Appellant had only a few years of experience in his post. The other Co-Respondents left the appeal in the hands of the Tribunal and decided to abide by its decision.

Determination

The appeal rests largely on the contention that the Appellant was better qualified than the Co-Respondents and he was doing his duties to the satisfaction of his supervisors.

However, in a selection exercise there are many elements which are taken into consideration in the assessment of candidates. Qualifications will be one of these. At the hearing, the representative of the Ministry gave the list of criteria for the assessment of candidates which were qualifications, knowledge of work, experience, personality and work/conduct. The best candidates are those who

perform better in the overall assessment. A candidate may meet all expectations as far as one or two criteria are concerned but not the other ones.

It is clear that the Appellant expects to be among those selected by the mere fact that he had been doing the duties of the job, as he has himself stated, for several years. However, the Respondent denied that the Appellant had been performing the duties of the job for so long. The Appellant conceded that he received an allowance for performing the duties for only one year. There was some confusion as to the dates the Appellant was actually, and officially, performing such duties. However, this is not important as assignment of duties is no ground for appointment to the substantive post.

The Appellant stated that his supervisors were satisfied with his work and he had no adverse report. The Respondent rebutted this averment to the effect that the Co-Respondents also had no adverse reports against them.

On the basis of the confidential information provided to the Tribunal by the Respondent, the Tribunal finds that the qualifications of the Appellant were taken into consideration by the Selection Panel for which he got the maximum marks but on the other criteria the Appellant performed less well compared to the Co-Respondents.

The Tribunal finds that the Respondent has followed the selection procedures and the appointment of the Co-Respondents cannot be questioned as the Tribunal has not come across any unfair or unreasonable element during the selection process.

The appeal is set aside.