

**If a candidate is fully qualified for a post, has no adverse report and is the seniormost in his grade, his promotion cannot be questioned as seniority is an important criteria for promotions**

The Appellant is challenging the decision of the Respondent not to appoint him to the post of...in the Ministry of... In this exercise, the Co-Respondent was appointed. The latter will abide by the decision of the Tribunal.

### **Appellant's Case**

The Appellant averred that he had been in service since ... and, on ... he was appointed Assistant to the post which is the subject of the present appeal. He has been acting in that post on a number of occasions. He had 42 years of service.

The Appellant stated that he had always been told by his supervisors that he was the most senior and that he would be the next person to be appointed Inspector. He conceded that he never got confirmation of this from anybody from the Ministry and he lived with the impression that he was the seniormost and expected to be appointed. He was, therefore, aggrieved when he found that he was not appointed this time.

The Appellant stated that he had nothing personal against the Co-Respondent or anything adverse which he wanted to bring to the attention of the Tribunal to show that the Co-Respondent did not deserve to be appointed. He only came to know that he was not the seniormost when he came to the Tribunal for the Hearing.

### **Respondent's Case**

The Respondent stated that the vacancy for the post was reported to the Public Service Commission by the Responsible Officer (R.O) of the Ministry ... on ... The R.O recommended that the Co-Respondent be appointed as he was the seniormost in the grade of Assistant Inspector and the post was filled by promotion. The Co-Respondent was appointed.

The Respondent averred that the Appellant joined service as.. He was offered employment in another post with effect from ...and was transferred on the Permanent and Pensionable Establishment in ... He was appointed Assistant in the post in question with effect from... He ranked 4<sup>th</sup> in the grade of Assistant to that post at the time the R.O submitted his recommendation for the promotion to the grade of Inspector.

Since the Co-Respondent was 1<sup>st</sup> in the grade of Assistant to that post, was fully qualified and had no adverse report against him, he was appointed to the post.

## **Determination**

The post of ..is filled by promotion, on the basis of experience and merit of officers in the grade of Assistant who reckon at least three years' service in a substantive capacity in the grade and who:

- (i) Possess organising, supervisory and communications skills; and
- (ii) Have general knowledge of Financial, Procurement and Human Resource Management procedures

The Appellant is not contesting the fact that the post is filled by promotion or that the Co-Respondent was appointed. His only grievance is that he has always been given the impression by his supervisors that he was the most senior and that the next promotion was his. He only found out that this was not so when the Respondent stated at the hearing that the Co-Respondent was 1<sup>st</sup> and he was 4<sup>th</sup> on the seniority list.

This appeal leads the Tribunal to comment on an unhealthy situation that prevails in the public service that public officers are not aware of their seniority position in their respective grades. They always say that they are not aware that they can consult the staff list. Sometimes they try but seem to be discouraged. The Tribunal has heard in many cases brought before it that the appellants are not aware where they stand vis-à-vis their colleagues, and, had they known, the appeals before the Tribunal would not have been necessary. Such cases inevitably overload the Tribunal and delay the determination of other appeals deserving the attention of the Tribunal. More serious still, is that public officers may be under the wrong impression as to their chances of a promotion and nurture expectations which are not borne out by their real situation.

The Tribunal recommends, therefore, that the public bodies should devise a system where public officers are invariably told of their seniority rankings, and in particular in the minor grades where there are large numbers of employees. This will only be fair to them and will also shield the public bodies from certain wrong perceptions and ill-feelings whenever there are appointment exercises.

In the present case, the Tribunal finds that the Respondent has not erred in the appointment exercise and that Appellant was not more meritorious or senior than the Co-Respondent.

The appeal is set aside.