

PUBLIC BODIES APPEAL TRIBUNAL

No. D/07 of 2013

In the matter of:-

**Ramnath Aubeeluck
Satiadev Seedhoneea**

(Appellants)

versus

Public Service Commission

(Respondent)

and

**Beeneeshwarsing Bijloll
Soorshen Koothan
Ahmed Habibullah Jannoo
Kissor Kisto
Anirood Dowluttea**

(Co-Respondents)

Determination

The two Appellants are challenging the decision of Respondent to appoint the Co-Respondents to the post of Assistant Commissioner, Social Security.

Appellants' Case

The Appellants claimed that they had better qualifications than the Co-Respondents. The Pay Research Bureau, in its reports, always puts emphasis on the need for officers in their profession to enhance their qualifications in order to improve the efficiency of the service. They averred that there was no proper selection and there was no proper weight given to qualifications and the importance of their contribution to the

work of their Ministry. Appellants felt that the Respondent failed to apply the test of meritocracy which would have been in their favour as they had experience in all the areas covered by the Social Security section of the Ministry .They were conversant with all social security issues which would allow them to take the right decisions and policies.

They applied to the Tribunal for redress.

Respondent's Case

The Respondent averred that the Responsible Officer of the Ministry of Social Security reported five vacancies in the grade of Assistant Commissioner, Social Security to the Respondent on 6 May 2011.

These vacancies were advertised on 1 June 2011 among eligible officers by way of Circular Note No.36 of 2011. According to the Scheme of Service for the post, the vacancies were to be filled by selection from among officers in the grade of Principal Social Security Officer (PSSO) or from officers in the grade of Senior Social Security Officers (SSSO) who reckon at least six years service in a substantive capacity in the grade and who possess either (i) a degree in Social Work or Sociology from a recognized institution or (ii) a Diploma in Social Work together with a degree in Administration or Economics from a recognised institution or equivalent qualifications acceptable to the Public Service Commission

There were 29 candidates, including the Appellants, and 26 of them were found eligible. They were interviewed on 12 and 13 September 2011. The five Co-Respondents were offered appointment on 14 November 2011 and they assumed duty on the same day.

The Appellants were eligible to apply. All the information regarding their qualifications and experience, as contained in their application forms, were taken into consideration by the Respondent's selection panel.

Respondent averred that it took into account the requirements of the post, the criteria of the selection determined by Respondent, the requirements of the Scheme of Service, performance at the interview and the provisions of PSC Regulation 14(1) (c) to determine the suitability of the candidates for appointment.

Respondent averred that it acted in all fairness in accordance with powers vested upon it by section 89 of the Constitution and the provisions of the PSC Regulations.

Determination

The fact that the post of Assistant Commissioner, Social Security is filled by selection is not disputed. The Scheme of Service for the post provides for this.

The Appellants feel that they have high qualifications and their wide experience have not been taken into consideration. They made reference to the recommendations of the Pay Research Bureau for the need to have higher additional qualifications.

Respondent stated that the selection panel took into consideration all the information which Appellants had put in their application forms.

At Hearing it became clear that the Appellants had not given all the details about their work and the wide experience they claim they have in their applications. They thought that the RO of their Ministry were aware of these and would have referred to them when filling their confidential reports or the *ad hoc* report which were submitted to Respondent. They also expected to have the opportunity to address these at the interview when replying to questions put to them. It appears that they missed the chance to harp on these merits which left the selection panel unaware of the specific tasks that they have been doing which could have played in their favour.

Candidates for a post must put all the chances on their side and provide as much information as possible when they apply for appointment to the Respondent. They cannot expect the selection panel to know their professional paths, even if one of the members of the panel was from the Appellants' Ministry. The onus lies squarely on the candidates

to present themselves properly. The Respondent cannot be held responsible if it acts on incomplete documents or information from the candidates.

The Tribunal has sought information from the Respondent to allow it to see clearer before it determines the appeals.

The Tribunal found, from the information given under confidential cover, that the Respondent had the information which the Appellants listed in their Statement of Case. The Respondent assessed the candidates on their relevant experience, personality, communication skills, planning/organizing/supervisory skills and their aptitude. However, there were no separate marks given for qualifications or additional relevant qualifications, the two criteria which are central to the Appellants' case.

The question then is whether this omission has been prejudicial to the selection of the Appellants. It is, therefore, necessary to go back over the selection for the appointment in the grade of Assistant Commissioner, Social Security. The first category concerns those in the grade of Principal Social Security Officer. The second category concerns the Senior Social Security Officer with at least six years of service in the grade and possessing a degree.

The post of PSSO is filled by promotion from the grade of SSSO. The latter position itself is filled again by promotion from the grade of Higher Social Security Officer. However, to be promoted PSSO, the SSSO must have obtained a Diploma in Social Work from a recognised institution or an equivalent qualification acceptable to the Public Service Commission. In other words, a PSSO with only a Diploma can aspire to be appointed Assistant Commissioner, Social Security in a selection process.

The case of an SSSO is different. For him, to aspire to the post of Assistant Commissioner, Social Security he needs to have a number of years of service in the post plus a degree. This will allow him to go round the post of PSSO and be eligible for consideration for an accelerated career path directly to the post of Assistant Commissioner, Social Security. The possession of a degree is only to grant him eligibility

of consideration. How this degree or additional qualifications is taken into account in the selection assessment is a different matter.

Now, let us look at the qualification issue. As explained above, the PSSO is eligible with only a Diploma as basic qualification for the post of Assistant Commissioner, Social Security. The five Co-Respondents are all PSSOs. Two of them (Bijloll and Kisto) have the Diploma In Social Work, two others (Koothan and Dowlutteea) have the required Diploma plus a Degree in Social Work and the fifth Co-Respondent (Jannoo) has a degree in Social Work.

If the selection panel had included qualifications in the marks sheet, all the Co-Respondents with their Diploma or equivalent would have ranked *pari passu* with the Appellants on this count. The inclusion of a “qualification” criterion would not have added anything in the assessment.

As regards the Master’s degree of the Appellants, these were not requirements for the post of Assistant Commissioner, Social Security. What weight would have been given to the MBA with specialization in Human Resource Management of Appellant No 1 or the MSc in Social Development of Appellant No 2 is not known. However, the Tribunal believes that it would have made no difference given the margin of total marks between the Co-Respondents and the Appellants. In short, even if Respondent had taken on board the claim of Appellants regarding their additional qualifications, the outcome of the selection exercise would have been the same.

Further, the Tribunal feels that, if in the Scheme of Service, the PSSOs have been given an unqualified eligibility to the post of Assistant Commissioner, Social Security while the SSSOs are given only the possibility for an accelerated move on the career path, this is to respect the higher position of the PSSO and not thwart their career prospects. This is not to deny the encouragement that needs to be given to officers to enhance their qualifications and be better officers.

The appeal is, therefore, set aside.

S. Aumeeruddy-Cziffra (Mrs)
Chairperson

Wong So
Member

P. Balgobin-Bhojrul (Mrs)
Member

Date:

Note: This case is not being treated confidentially as there has been a motion for Judicial Review before the Supreme Court by the Appellant. All information relating to the case was made public as the Supreme Court, unlike the PBAT, does not deal with such motions in camera. Since the case was withdrawn, the Determination of the Tribunal stands good.