

**Det 11 of 2014**

**A mere perception of an Appellant cannot suffice to show that he did better than a Co Respondent. To make double sure the tribunal seeks confidentially from the Respondent information regarding the results of an examination and the markings of each party with regard to the established criteria**

The Appellant is an officer at the Ministry of.... He is appealing against the decision of the Respondent to appoint the Co-Respondents to the post of LEHA

### **Appellant's Case**

The Appellant solemnly affirmed to the correctness of his Grounds of Appeal and Statement of Case in which he explained how he is aggrieved. He averred that he was posted at the... Sub-Office. He stated that he applied for the post of LEHA and he was called for interview on ... He was not selected. The Appellant believes that he has more qualifications than those required. He stated that he was fully qualified and he followed a course at a Training Centre and he obtained a certificate of attendance from the said Centre. He believes that he should have been appointed.

He claimed that he did well in the written examination of ten minutes and he completed his answers in 7 minutes. He saw that Co-Respondent No. 1 was not writing much and he later spoke to the Co-Respondents and they told him that they found the questions difficult to answer. Co-Respondent No. 1 said that he could not write much. He however insisted that he sat next to Co-Respondent No.1 who did not manage to answer. Appellant also stated that he did well at the interview and replied to all the questions 'in a good manner'.

The Appellant conceded that he had nothing against Co-Respondent No. 2 but he was contesting only the appointment of Co-Respondent No.1. He found it surprising that Co-Respondent No.1 was promoted HOM and SHOM within a period of just over six years.

### **Respondent's Case**

The Respondent's representative solemnly affirmed to the correctness of the Statement of Defence and averred that the vacancies in the post of LEHA were

advertised on .... There were 38 candidates and 36 were found eligible. They were convened for interview on two different dates.

The Respondent had delegated the power of appointment to the Ministry of ...A representative of that Ministry deponed and stated that a selection board had been set up for the interview. Initially six candidates were appointed as there were six vacancies. Following two vacancies that occurred in the post, the two Co-Respondents were appointed from the merit list drawn in the previous selection exercise.

The Appellant joined the service on ...and was appointed on the permanent and pensionable establishment of the Ministry on ....

Co-Respondent No.1 joined the service on the same date as Appellant and was appointed on the permanent and pensionable establishment earlier than Appellant. He was appointed HOM on

Co-Respondent No.2 joined the service on the same date ...and was appointed on a permanent and pensionable establishment of the Ministry later than Appellant .

The Appellant did not have higher qualifications than the Co-Respondents. During cross-examination the Representative of the Ministry replied that the qualification required was ... and that other qualifications were not required.

The Respondent stated that the post was filled by selection as per the Scheme of Service. The selection panel assessed the candidates on the following criteria:

- (i) Qualifications
- (ii) General Knowledge of Work
- (iii) Aptitude
- (iv) Writing Skills
- (v) Communications Skills
- (vi) Managerial and Supervisory Skills

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

## **Co-Respondent's Case**

Co-Respondent No.1 left the matter in the hands of the Tribunal.

Co-Respondent No.2 gave a brief Statement of Defence and then left the matter in the hands of the Tribunal.

## **Determination**

It was clear at the hearing that the main, if not the only, issue in this appeal relates to the perception of the Appellant that Co-Respondent No. 1 did not do well in the written examination judging by how the latter was finding difficulty to write his answers .

The Respondent had stated at the hearing that the Appellant and the Co-Respondents got equal marks as regards qualifications. The Appellant did not challenge this.

As regards the performance of the Appellant and Co-Respondent No. 1 at the written examination there is only the perception of the Appellant. This Tribunal cannot adjudicate on a mere perception and obviously the Appellant could not produce evidence to buttress his averment. The Tribunal, to be fair to the Appellant, asked the Respondent for the questions set for the written examination and the replies of the Appellant and Co-Respondent No. 1. There was no need to ask for the replies of Co-Respondent No. 2 as the Appellant stated that he was not challenging the latter's appointment.

After perusing the documents shared with the Tribunal for its eyes only, the Tribunal found that Co-Respondent No. 1 did well in the written examination and he scored higher marks under the item writing skills. His overall marks were also higher.

The Tribunal sees no reason to intervene.

The appeal is set aside.

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**S. Aumeeruddy-Cziffra (Mrs)**

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**G. Wong So**  
Member

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**P. Balgobin-Bhojrul (Mrs)**  
Member

**Date:** .....