

Candidates however meritorious they may be must show that those who have been appointed were either less qualified, less experienced than them or that they were under report. Otherwise all candidates are on a level playing field and the assessment at the interview will take all criteria into consideration.

This is an appeal concerning the appointment of two batches of eligible employees to the post of COLA. The Appellant lodged two appeals concerning the « promotion » of 25 and 10 officers respectively to the post of COLA. Both Appeals were consolidated.

Appellant's Case

Appellant averred in his Grounds of Appeal that he had all the qualifications required for the post and had performed duty in that post which was differently termed since

In his Statement of Case, he averred that he joined service on ... as ... He was posted to.... up to ... and was then transferred to...

He performed the duty of COLA from ... as there was no one in that post. He had performed the same duty in ... when an officer doing that job was on vacation for three months. He possessed some relevant certificates. During cross examination he said that he had seen the Statement of Defence of some Co-Respondents and therefore he was no longer contesting their appointment. But he maintained that Co Respondent No 8 and Co Respondent No 1 both in the second case, were not as meritorious as him. During cross examination of the Co Respondents, however, this was not so obvious. The Tribunal therefore decided to ask Respondent to provide, for the eyes of the Tribunal only, the criteria used by the interviewing panel, the weight attached to each criterion as well as the mark sheets.

Respondent Case

The Representative of the Ministry of ... solemnly affirmed to the correctness of the Statement of Defence produced by Respondent. Respondent

explained that the power of appointment in this exercise had been delegated to that Ministry. The Scheme of Service provided that the post be filled by selection from among employees on the Permanent and Pensionable Establishment (PPE) and who hold the minimum qualifications. A note however provided that consideration would also be given to serving officers who have proven experience of COLA work though they did not have the academic qualification.

The original vacancy concerned 6 posts. 531 applications were received and 353 candidates were found to be eligible and were convened for an interview. The Selection Board submitted a merit list of 70 candidates and the first 6 on that list were appointed. Offers of appointment were then made to 25 candidates from that same merit list to fill 25 funded vacancies. Seven declined the offer and a third batch of 8 candidates were appointed. Two of them declined the offer and subsequently two candidates next on the merit list were offered appointment.

Respondent averred that it was on ... that Appellant was transferred on the PPE. Appellant was appointed ... as from 25 ... when he was transferred to

The records showed that he was called upon to replace the COLA from ... During cross examination of the Appellant and of the Representative of the Ministry, it was evident that Appellant might have replaced the COLA at the request of the officer in charge, as averred by him, but this was never done officially.

The Respondent averred that all procedures had been scrupulously followed but Appellant was not chosen.

Co-Respondents' Case

Co-Respondent No 1 and No 8 solemnly affirmed to the correctness of their Statements of Defence and were cross examined. Co-Respondents Nos 7 and 10 (in the first case) and Co-Respondents 1, 4, 5, 7, and 12 in the second case had submitted their Statements of Defence listing their qualifications but they did not depone before the Tribunal. Most of them were represented by a representative of their union. Co-Respondents Nos 2 and 9 (in the first case) and

Nos 17, 21, 24 (in the second case) had stated that they were leaving the matter in the hands of the Tribunal.

Determination

It is quite legitimate for any candidate who feels that he has the required qualifications and experience to be frustrated when he finds that he has not been appointed. But what an Appellant must show to this tribunal is that those who were in fact appointed were not at all deserving either because they were not qualified, lacked experience or had been under report for some reason which could affect their competence in the job.

The best way to understand how the interviewing panel assessed the candidates is to look at the qualifications and the markings. These were provided under confidential cover to the Tribunal.

It must be remembered that there were 353 candidates who were found eligible out of 531 applicants. This means clearly that those 353 candidates who were called for interview, including the Appellant and the Co Respondents, were all qualified.

Then it is important to see the criteria and the weight attached to each criterion. The assessment sheet showed that for qualifications candidates were given marks on the basis of whether they did 1 or 2 subjects ... The marks given for additional qualifications were again broken into those who did small courses or a course of up to one year or those who had a diploma.

The Panel also gave marks to those who had technical knowledge and experience (minimum 1 year). They were also assessed on their aptitude and personality.

Appellant who had a certificate with three subjects was marked favourably on this basic criteria but he had no diploma. He received marks for his short course and technical knowledge and experience and full marks for aptitude and personality. The selection panel looks at an Ad Hoc Report before appointment. Appellant's Ad Hoc report was very good.

Appellant was among a list of 70 which was drawn up by the Panel but he was not high enough on that list to be able to be appointed. Further all those who had the same number of marks as him were also not appointed. Unfortunately the merit list is now obsolete and he will have to apply again if there is a vacancy.

The fact that he replaced for such a long time as COLA, without having sought any document to prove this could have played against him. However, assessment of candidates was done on a number of criteria. A candidate may score high marks on some criteria and may not rank high on the overall marking.

The appeal is set aside.