

Det 19 of 2014

PSC Circular No 5 of 2008 provides that “filling of vacancies in respect of grade to grade promotion should as from 1 January 2009 invariably take effect from either (a) the date of assumption of duty; or (b) the date of actingship/assignment of duties starts; or (c) the date of vacancy whichever is the latest, provided in the case of (c) there has been no gap between the actingship/assignment of duties and the date of offer of appointment”.

The Appellant is contesting his effective date of appointment as AT Manager, at the Ministry of ...

The Respondent had raised two points of law. These were argued before the Tribunal and the Tribunal ruled that the two points were not tenable. However, the Tribunal wanted to know more on the issue of change in seniority ranking concerning the Appellant and the Co-Respondents.

The facts of the case have been spelt out at length in the ruling given by this Tribunal (vide ruling R/01 of 2014) and this determination must be read concurrently with that ruling.

It needs to be pointed out that the offer of appointment to Co-Respondent No. 3 was withdrawn by Respondent as the officer did not assume duty due to family commitments. Co-Respondent No.1 was on leave without pay. The Appellant himself stated that his challenge concerned only Co-Respondent No. 2

The Appellant was, before his appointment, a Senior CTO and was on temporary transfer to the ... On the..., the Appellant was offered assignment of duties to the post of AT Manager, as from or the date of his assumption of duty and he was supposed to report to the Ministry of On ..., he informed the Responsible Officer of the said Ministry that he accepted the assignment of duties. He reported to the said Ministry on ... but he could not assume duty as he was not released from the section where he was posted. The Co-Respondents were assigned duties as AT Manager, with effect from earlier dates. For this appeal, we are concerned with only Co-Respondent No 2 and according to the Respondent, he was assigned the duties as from ...

The Appellant had been assigned the duties of AT Manager, since an earlier date as he was 2nd in the list of Senior ICR. When he was transferred to the ..., his assignment of duties as AT Manager lapsed while the assignment of duties of the Co-Respondent No 2 continued uninterrupted.

It followed that, when the vacancies for the post of AT Manager were filled in ..., the Appellant lost his seniority over Co-Respondent No 2. The appointment of Co-Respondent No 2 was backdated as he was on continuous assignment of duties of the post while the appointment of Appellant took effect as from his assumption of duty as his assignment of duties had lapsed when he was transferred to the... The Appellant assumed duty on ... and his appointment took effect as from this date. This is in line with PSC Circular No 5 of 2008 which says that

“filling of vacancies in respect of grade to grade promotion should as from 1 January 2009 invariably take effect from either (a) the date of assumption of duty; or (b) the date of actingship/assignment of duties starts; or (c) the date of vacancy whichever is the latest, provided in the case of (c) there has been no gap between the actingship/assignment of duties and the date of offer of appointment”.

It is noted that even if the Appellant had taken up the assignment of duties when it was offered to him in ..., he would still have lost his seniority as Co-Respondent No. 2 was assigned the duties of the post as from an earlier date.

The appeal is set aside

S. Aumeeruddy-Cziffra (Mrs)

G. Wong So
Member

P. Balgobin-Bhojrul (Mrs)
Member

Date: