

# PUBLIC BODIES APPEAL TRIBUNAL

**Det 20 of 2014**

In a promotion exercise, seniority is a determining criterion and, unless a candidate has had an adverse report, if he is senior, he will be appointed.
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The Appellant, ... at the Ministry of ..., is challenging the decision of the Respondent not to appoint him to the post of AMBD

## **Appellant's Case**

The Appellant averred that he was senior to those appointed and yet he was not appointed. He stated that he had nothing against those who were appointed. However, he had long waited to be appointed to that post. He joined the service as MCC in .... In July ..., he was appointed DRO... He had been acting in the post of AMBD for more than 10 years but when it came to appointment in a substantive capacity he was not chosen and his junior colleagues were appointed.

## **Respondent's Case**

The Respondent averred that the post of AMBD was filled by promotion from the grade of DRO as per the Scheme of Service for the post. Candidates had to reckon at least five years' satisfactory service in the Ministry and to have successfully completed a course ...

The Responsible Officer of the Ministry was granted delegation of power of appointment for the grade of AMBD provided approval of the Respondent was sought in cases of promotion exercises involving supersession.

The Respondent stated that the Responsible Officer of the Ministry had made recommendations to the Respondent for appointment by way of promotion to fill in the vacancies and those who were top of the seniority list were appointed.

Under cross-examination by Counsel for the Respondent, the Appellant conceded that those who were appointed were his senior.

The Respondent, therefore, submitted that the appeal had no merit and moved that it be set aside.

## **Determination**

The said post is filled by promotion. In a promotion exercise seniority is the determining factor and the senior-most are appointed unless there are adverse reports against them.

The Appellant claims that he has been doing his job well and no adverse report has been filed against him. He has not shown whether those appointed have been subject to adverse reports which could have led the Responsible Officer to recommend any supersession to the Respondent. He has furthermore, on the day of the hearing, intimated to the Tribunal that he was not challenging the appointment of the Co-Respondents but was in fact challenging the appointment of ... in another appointment exercise. He had not however lodged an appeal to contest the appointment then.

In the light of the Statement made by the Appellant himself, and in view of the fact that he was clearly not the seniormost, the Tribunal finds that the Respondent has not faulted in this selection exercise.

The appeal is set aside.