

When an officer is dismissed for not respecting the requirement concerning the « local address », evidence given by a police officer on hearsay by informers and without checking concrete evidence given by Appellant, will not suffice to satisfy the Tribunal which will quash the decision of the Respondent.

The Appellant is challenging the decision of the Respondent to terminate his appointment as TOR on a day-to-day basis at the Municipal Council of ... This decision was communicated to the Appellant in a letter from the Chief Executive of the Municipal Council of ... dated ... and which read as follows:

I am directed by the Local Government Service Commission to inform you that as you reside at ... (in another locality) the Commission has, in exercise of the powers vested in it by section 4 (1) (c) of the Local Government Service Commission Act 1975, decided to terminate your appointment as TOR on a day-to-day basis, at the Municipal Town Council of ... by paying you compensation equivalent to one month's salary in lieu of notice.

2. *Your appointment as TOR on a day-to-day basis, at the Municipal Council of ... is hereby terminated forthwith.*

3. *You are requested to acknowledge receipt of this letter by returning to me the enclosed copy duly signed and dated by you.*

Appellant's Case

The Appellant averred that he was staying at (an address in the town concerned) on a permanent basis. He stated that he came to stay at this address in ... and in ... when his grandfather passed away, he stayed permanently at this address with his grandmother. His mother was still staying (in another town).

The Appellant was enrolled at the ... College at ...(in the town concerned). He left the college after the demise of his grandfather and started to work.

The Appellant further averred that he was known to be staying at the given address in ... and he was attending the mosque regularly at ... (within the limits of the town)

The Appellant submitted that the Respondent should not have terminated his appointment as he was staying in (the town concerned).

Respondent's Case

The Respondent averred that the said post was advertised on ... to persons residing within the boundaries of the Municipal Council of ... There were 796 candidates and the respondent decided to appoint 89 of them including the Appellant. Their appointment was on a purely temporary day-to-day basis and the appointment could be terminated without notice or compensation in lieu of notice.

On ..., security clearance was sought from the Prime Minister's Office in respect of the 89 appointees including the Appellant. On ..., the Respondent was informed that the Appellant was not a resident of ... but was residing at ... and the address given by the Appellant on his application form was that of his grandmother.

The Respondent terminated the appointment of the Appellant and the latter was paid a compensation equivalent to one month's salary in lieu of notice.

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

Determination

Appointment to the post is conditional on the incumbent being a resident of This was clearly stated in the advertisement when applications were invited for filling the vacancies for the post. Anybody who is not a resident of this locality cannot be employed for the post and any person found not to satisfy this requirement will find his appointment terminated.

The question, therefore, is whether the Appellant was a resident of ... or not. Has there been false declaration in the application form as regards the address of the applicant?

At the hearing, the Tribunal heard the wife and mother of the Appellant as well as the police investigator who carried out the address verification.

The wife averred under solemn affirmation that she had known the Appellant since the year ... and they got married (nikah) on ... She had always known the Appellant to be staying at (the address concerned) and when they married she also went to stay at the same address. It was the Appellant's grandmother who was paying the utility bills.

The mother averred under solemn affirmation that she had been staying in another town for the past 25 years. She stated that the Appellant started staying in (the town concerned) since ... when his grandfather was having health problems. She confirmed that the Appellant was not staying with her.

The police investigator was posted in the Western Division and he was asked to check on the address of the Appellant when the latter was offered appointment. He averred under solemn affirmation that he received information from his informers that the Appellant was residing occasionally at (the address concerned). He said that he relied solely on the information imparted to him by the informers but did not check at the Mosque or college.

He also enquired about the address the other town. Again he averred that he got information from his informers that the Appellant was living there but he did not personally go and check or speak to the Appellant's mother or any person living at this address.

After the Tribunal has heard the three witnesses there is still some doubt as to whether the address of the Appellant has been properly ascertained. The first two witnesses are categorical that the Appellant was staying in (the town concerned) while the police officer claimed that the Appellant was staying in (the other town) and occasionally in (the town concerned) solely on information provided by informers but on which he had no personal knowledge. The police officer stated that he had to act discreetly in the investigation and this explained why he did not go to the two addresses personally. Surely there are more modern and appropriate methods to investigate on someone's address.

Given the grey area as regards the address of the Appellant which was the sole reason for Respondent's decision, the Tribunal quashes the decision of Respondent remits the case to it and directs it to reconsider its decision and to report to the Tribunal about any action taken within a period not exceeding two months.

