

Seniority is always the least important criteria in a selection exercise. Regulation 14 of the PSC provides that qualification, experience and merit are more important. Assignment of duty to the post does not also automatically favour the assignee. Only relevant qualifications required in the Scheme of Service are marked and additional qualifications may not be in the list of criteria.

The Appellant, PSIR, is challenging the decision of the Respondent to appoint the Co-Respondent to the post of Assistant DIR

Appellant's Case

The Appellant averred that she had been occupying the post of PSIR since ... Following the advertisement inviting application for the post on ... by way of PSC Circular Note No ..., the Appellant applied. She was interviewed at the Public Service Commission and was later informed that the Co-Respondent had been appointed.

The Appellant challenged this decision as she met all the requirements for the post and possessed all the required qualifications.

The Appellant further averred that she was better qualified than the Co-Respondent. She possessed an International Diploma in ... which she obtained in India under a scholarship offered by Government. With this qualification, she was trained in ..., and she acquired the skills and knowledge to fulfill the duties of the post. The Appellant also possessed the several other qualifications:

The Appellant further averred that she had been assigned the duties of the post for four months and she did so with efficiency and professionalism. This gave her the experience to occupy the post on a permanent basis.

She claimed she was more senior than the Co-Respondent. She had 10 years experience in that post. Her seniority allowed her to acquire more experience and skills than the Co-Respondent.

In her 41 years in service, she never received any complaint or negative report in respect of the fulfillment of her duties. She had always handled all her

assignments with responsibility, professionalism and efficiency. Her competence was beyond doubt.

She, therefore, found it unfair that the Co-Respondent, with his fewer qualifications, fewer years of experience and fewer skills, could be a better candidate for the post.

The Appellant requested the Tribunal to quash the decision of the Respondent.

Respondent's Case

The Respondent averred that the post is filled by selection.

There was a vacancy and same was advertised on ... Seven candidates applied and three, including the Appellant, were found eligible and were called for interview. The Co-Respondent was appointed and he assumed duty on ...

The Respondent stated that the post was opened to officers in the grade of PSIR, reckoning at least two years' service in a substantive capacity in that grade, and who possessed the requirements as per the Scheme of Service.

The Respondent did not deny that the Appellant was the most senior in the grade of PSIR. The Co-Respondent was appointed PSIR in a temporary capacity later. The Respondent also stated that the Appellant performed the duties of the post of Assistant DIR, but she was told that the assignment of duties would not give her any claim for permanent appointment to the post.

The Respondent submitted that the post was filled by selection as per the Scheme of Service. Seniority did not prevail as PSC regulation 14 put qualifications, experience, merit and suitability before seniority. There was a selection panel that interviewed the candidates according to pre-established criteria. The Co-Respondent was found a better candidate and was appointed.

The Respondent moved that the appeal be set aside.

Determination

The fact that the post is filled by selection is not disputed. The Appellant feels that more weight should be given to qualifications and seniority in the selection exercise.

However, PSC regulation 14 clearly puts qualifications, experience, merit and suitability before seniority. Therefore grounding her appeal on seniority does not help much to justify her appeal for non appointment to the post. The Respondent will always refer the Appellant to its regulation 14 and state that the longer years of service or assignment of duties will be taken into consideration when the candidate is assessed on the criterion “experience”. Seniority becomes important only if candidates are at par in the overall markings.

On the other leg of the appeal relating to qualifications, the Appellant relied on her own qualifications to state that she is better qualified than the Co-Respondent. During cross-examination, she conceded that she did not know the full qualifications of the Co-Respondent except that she is aware that the Co-Respondent does not have the qualifications she has. This is not the way to compare the relative qualifications of two persons.

In order to see clearer, the Tribunal asked the Respondent to provide information on the criteria used for assessment, their weightage and the markings as well as the qualifications of the Appellant and the Co-Respondent. The purpose was to see whether the Appellant is more qualified than the Co-Respondent as she averred, and how the additional qualifications were given marks and how the relative experience was rated and the marks scored by each one.

From the information provided to the Tribunal under confidential cover, the Tribunal finds that the interview panel had used the following criteria for assessing candidates, namely :

- (1) Relevant experience
- (2) Responsibilities of the post
- (3) Personality
- (4) Communications and interpersonal skills
- (5) Managerial skills
- (6) Leadership and motivational skills

- (7) Pedagogical and training skills
- (8) Aptitude

The Appellant is grounding her appeal on two main issues, namely that she is better qualified than the Co-Respondent and that she has more experience.

On the issue of qualifications the Tribunal finds that the Co-Respondent has a... The Appellant has these two qualifications and they both obtained them in the same years. The Appellant has other certificates but in the eight criteria there is nothing with regard to additional qualifications. The Respondent is satisfied that the candidates met the requirements for the post and has not found it fit to give marks for additional qualifications, which is its prerogative. The Tribunal therefore has nothing to say about this. Had additional relevant qualifications been on the list of criteria, the Tribunal could have found it unreasonable if the Appellant had not been given more marks than the Co-Respondent.

As regards experience, the Respondent found that the Appellant and the Co-Respondent did not have the experience necessary for the post. They were rated low and both given the same markings. It is noted that the Appellant was appointed PSIR on ... and the Co-Respondent was appointed to the same post one and a half month later.

It is noted that the Appellant and the Co-Respondent were rated *at par* on several criteria except on some which tilted the balance in favour of the Co-Respondent.

The Tribunal finds that the Respondent has followed the selection procedures and the Tribunal finds no reason to quash the decision of the Respondent.

The appeal is set aside.