

For a promotion exercise, seniority is an important criteria. But it is seniority as established at the previous selection exercise and not based on the date of joining service.

The Appellant is challenging the decision of the Respondent to appoint the Co-Respondent as Senior BIET.

Appellant's Case

The Appellant averred that he joined service in the Ministry of as PALAT on..... On he became BIET. He was then transferred to the relevant Department.

He claimed that he had longer service and also more experience in the field than the Co-Respondent who only joined as BIET on He was also assigned the duties of Senior BIET and Principal BIET on several short occasions.

He submitted that since the appointment as Senior BIET was a grade to grade process, due consideration should have been given to seniority and experience, which was not the case in this exercise.

He found that the appointment of the Co-Respondent was unjust, unreasonable and unfair to him.

Respondent's Case

The Respondent averred that the post of Senior BIET was filled by promotion as per the Scheme of service for the post, which was prescribed on

The Appellant was a PALAT. Onthe Appellant made a request for transfer to the relevant Department. There was no objection to this request and on....., he assumed duty in that Department in a temporary capacity pending any vacancy that might arise. The Appellant averred that he was not appointed as BIET as there was no post created at that time.

It was only on....., that the Responsible Officer submitted a list of seven candidates for appointment asTechnician (later restyled BIET) as from the date they assumed duty. The list included the names of the Appellant and the Co-Respondent. The selection was done following a public advertisement. The Co-Respondent who was not in service topped the list and the Appellant was 2nd.

On....., the Responsible Officer reported to Respondent one vacancy in the post of Senior BIET. The vacancy arose onand the Responsible Officer recommended the Co-Respondent for appointment as he was 1st on the list of BIET. His appointment was to take effect as from.....as he was assigned the duties of the post as from that date.

The Co-Respondent was offered appointment on and he accepted the offer.

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

Determination

It is not disputed that the post of Senior BIET is filled by promotion from the grade of BIET. It is not disputed also that both Appellant and Co-Respondent met the requirement of five years' service in a substantive capacity in the grade of BIET.

The Appellant relies on the fact that he joined service in and moved to the relevant Department onfor his claim for appointment to the post. He is oblivious of the fact that his transfer to the BIET Department did not make of him a BIET even if he may have been performing the duties normally done by this grade of officers. It is clear that he was transferred there on a temporary capacity at his own request.

The Appellant seems unaware that the selection exercise that was carried out prior to his appointment as BIET on resulted in the establishment of a seniority ranking in which he came after the Co-Respondent. The Appellant never

found out from the staff list of the Ministry what his seniority ranking was in his grade. This can explain his appeal to this Tribunal which is due to this lack of information. Fortunately, since the establishment of this Tribunal, the public body is bound to give notification of any appointment and the list of appointees known as well as their order of ranking which are sent to Heads of Department to notify all officers concerned.

The Appellant was assigned the duties of Senior and Principal BIET but this obviously does not give him any claim for substantive appointment when the vacancy arose.

The Tribunal finds that the appointment was by promotion. Both Appellant and Co-Respondent were fully qualified. The Co-Respondent, being 1st on the list of BIET, was appointed.

The appeal has no merit and is set aside.