

Det 09 of 2015

When there are many criteria, candidates must satisfy the interviewing panel that they are all-rounders and versatile. Qualification and experience will not be enough.

The Appellant is a MME at the then Ministry of ... (hereafter referred to as Ministry). He is challenging the decision of the Respondent to appoint Co-Respondent No 2 to the post of FOREN.

The following facts in this case are not disputed:

- There were two vacancies for the post of FOREN.
- The said post were filled "*by selection from among (a) CHIT who have acquired a good general knowledge of the work performed by different categories of workers on a site of work or in a workshop and (b) TRAN who (i) possess the Certificate of Primary Education (ii) reckon at least eight years' service in a permanent and pensionable capacity as TRAN (iii) have a good knowledge of the work performed by different categories of workers on a site of work or in a workshop and (iv) are able to control, organize and discipline workers*". This was according to the prescribed Scheme of Service.
- The vacancies were advertised to eligible officers and interviews of eligible candidates were carried out on.... The Appellant was called for interview.
- The two Co-Respondents were appointed. They were offered appointment on ... and they assumed duty on ... accordingly.

Appellant's Case

The Appellant averred that the Respondent failed in the proper application of provisions of sections 14.1 (a), 14.1 (c), 14.5 and 19(6) of the Public Service Commission Regulations. Respondent's selection panel did not give due consideration to his qualifications, merit and suitability before seniority.

The Appellant stated that he had many certificates issued by the relevant Training institutions and which Co-Respondent No 2 did not possess. The Respondent had not given weight to Appellant's knowledge of the work performed by different categories of workers in a workshop which was one of the essential requirements mentioned in the Scheme of Service for the post of Foreman. The Respondent had not directed its mind to the proportionate weight to be given to the criteria at section 14.1 (c) of the PSC Regulations and by so doing had prejudiced Appellant's legitimate right to promotion.

Respondent's Case

The Respondent averred that there were 20 applications for this exercise, of which 19 were found eligible. The appointment was made by selection and the interview was carried out at the Ministry under delegated power. The Ministry had cleared with Respondent the composition of the selection panel and selection was done according to a set of criteria established by the Ministry's panel.

Respondent emphasised on the fact that the selection was done according to the Scheme of Service, the criteria of selection, performance at the interview and the provisions of regulation 14(1)(c) and regulation 19(6) of the Public Service Commission Regulations. The Appellant was eligible for the post. He was called for interview but he was not selected.

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

Determination

The PSC regulation 14(1)(c) reads as follows:

“...(c) in the case of officers serving in the public service, take into account qualifications, experience, merit and suitability for the office in question before seniority”.

The PSC regulation 19(6) says:

“No appointment or promotion to a vacancy in the public service may be made before the Commission has determined the suitability of the person concerned”.

The Appellant has grounded his appeal on the fact that Respondent has not given due importance to these two regulations.

He claims he has higher qualifications and he has more experience than Co-Respondent No 2.

The Tribunal has sought information from the Respondent under confidential cover, the Tribunal finds that the selection panel had a long list of criteria as follows:

- Knowledge of each ...
- Knowledge of technical terms
- Report writing
- Record keeping
- Procedure for loss and injury on duty
- Planning and organizing skills
- Personality/ Communication skills
- Experience
- Conduct
- Performance at work
- Attendance
- Knowledge of Occupational safety and health
- Knowledge of Information Technology

There was no criterion for additional qualifications on which the Appellant claims he should have been found more suitable for the post. The Scheme of Service itself does not put too much weight on the qualifications requirements. In fact, the post of FOREN requires the incumbent to possess only a Certificate of Primary Education and there is even a note saying that if candidates do not have a CPE, consideration would be given to candidate who could show proof of being literate.

The Appellant had also claimed that he had more experience than Co-Respondents. The Tribunal has been provided with information on experience of the Appellant and the Co-Respondents. The Co-Respondents had been working in different sections. The Appellant has worked only in one section even if he has moved to various sub-divisions of that section. The Respondent averred at the hearing that it was the practice in that section that officers are moved around as and when the need arises and depending on the workload. In fact both the Appellant and Co-Respondent No 2 obtained the same marks on the criteria of 'Experience'. This ground of appeal has not been substantiated.

The Tribunal finds that the appeal has not been borne out by the facts before it.

The appeal is set aside.