

Seniority is not a criterion in a selection exercise unless all candidates are at par.

The Appellants have lodged their appeals before the Public Bodies Appeal Tribunal on the grounds that:

Appellant No1: *«Moi ... mo ti rent dan travail en Sa deux personne la ti renttravail en ...moena ban experience travail kuma.... Mw moenalesperiencepliski zot. Mo kon ban travail tre bien. Mw mo p rod mo droit kilannee mo rentre dan travail»*

Appellant No 2: *«I am most senior on length of service than those appointed and I have been performing the duties a TNLDH for more than ten years»*

Appellant No 3: *“I am an employee of Ministry of ... as ... and on ... I will have ... years service. I am fully experienced with my duties. My first interview of LDH was on After that I re apply for the same post every times when there was vacancy for the post. Last time in ... I reapply and I sat an interview on ... but I have not been selected. I acted for ... years as LDH. More over the new recruitees who have been selected with less experiences”*

Appellant No4: *“Appeal against Co-Respondent No 1 + Co-Respondent No 5 and Co-Respondent No 6.
I join ... and Transfer to Ministry of... After 2000 + mois experience. The 3 workers above mention in Departement after me”*

All the appeals were heard together on the same day.

Appellant No 3 on that day withdrew his appeal. It was explained to him that he was a ... and according to the Scheme of Service for the post of LDH the post was filled from those in the grade of HMN and GEWR. As he was a ... he could not be considered and Respondent conceded that it was a mistake on its part to have convened him for the interview. The representative of the Respondent tendered apologies on behalf of the Respondent for the inconvenience caused and the Appellant accepted the apologies.

The hearing continued for the other three Appellants

Appellants' Case

Appellant No.1 deponed and maintained all his averments in his grounds of appeal and statement of case.

Under cross examination, he maintained that he was more senior than Co-Respondents and stated not being aware that seniority was not the main criterion considered at the interview.

He was not aware that there were other criteria on which the selection panel relied as well.

It was put to him that in the Scheme of Service, it was clear that good record, knowledge of work, communication and ability to lead a team and manage it were also relevant.

He agreed to that proposition.

Appellant No.2 also swore at to the correctness of his grounds of appeal and statement of case in which he explained that:

“I joined the Ministry in the year ... and I was promoted as HWR in the year

And in this context I like to point out to the Tribunal that I am most Senior at least three of those who have been appointed.

Furthermore I have been performing the duty of acting LDH for about ... years. Concerning my certificates I wish to point out that I have my CPE Certificate, and as well as I possess a Cambridge School Certificate with three subjects passed.

I, therefore herby wish to inform the Tribunal that I have been deprived of my rights of promotion concerning my seniority, as well as my experience.

Submitted for your information, please.”

Under cross-examination he stated being aware that seniority was not the most important criterion at an interview. He also stated being aware of the requirements in the Scheme of Service.

As regards the number of sites he visited daily, Appellant No 2 stated that he visited two which are of the same town.

It was further put to him that other employees in his category look after four sites daily. By looking after four sites it meant supervising sites and various assignments at the same time.

Appellant No 4 was adamant that he qualified for the post as he had a CPE contrary to the averment of the Respondent that he failed his CPE. He stated that he produced his full CPE certificate at the interview and same was returned to him.

Respondent's Case

Respondent swore as to the correctness of the content of the Statement of Defence filed at the Tribunal and stated that the appointments in this case have been made by way of delegated power by the Respondent to the Ministry of ...

According to the Respondent the post of LDH was filled by selection from among employees on the permanent and pensionable establishment of the Ministry in the grades of HWR (Special Class), HWR and GWR meeting certain conditions.

The candidates should:

- (i) Have a record of satisfactory service
- (ii) Show proof of being literate
- (iii) Have a general knowledge of all categories of work performed on sites of work , and
- (iv) Have the ability to supervise workers and maintain discipline among them.

The vacancies were advertised on There were 52 applications and 40 were found eligible and were convened for an interview. Three of them did not turn up for the interview. They were assessed on four criteria namely,

- (a) Qualifications
- (b) General knowledge of work
- (c) Communication skills, and
- (d) Supervisory and managerial skills.

Those who did not possess the CPE were required to read a text to assess their literacy.

There were seven vacancies and the first seven on the list established by the Selection Board were appointed.

The Respondent conceded that two of the Co-Respondents joined the service as General Worker on However, in a selection exercise, seniority was not an overriding criterion.

Determination

The appeal is grounded mostly on the fact that the three Appellants joined service before some of the Co-Respondents and they felt that they deserved to be appointed. As pointed out by the Respondent, it is clear that this was a selection exercise and seniority is not enough ground for an employee to get priority for appointment. This is very clear from regulation 14 of the PSC Regulations which “in the case of officers in the public service take into account qualifications, experience and merit **before** seniority in the public service” (emphasis ours).

In order to be satisfied that the markings have been done in a fair manner, the Tribunal asked the Respondent to provide it with the criteria, weightage and markings for the candidates for this selection exercise. The Respondent provided same under confidential cover.

The Tribunal finds that there was nothing to show that the Respondent erred in the assessment process. The criteria were according to the requirements for the post. The assessment of the three members of the Selection Board converged and was consistent. The Tribunal is satisfied that the selection was just and fair.

There was some confusion regarding Appellant No 4 as to whether he had a CPE or not. At the hearing before the Tribunal it appeared from the Respondent that he had failed his CPE. Appellant No.4 said that he had proof that he passed his CPE and he was asked to present this to the Tribunal, which he did the next day. Be that as it may, the Appellant had put in his application form for the post that he had a CPE and he stated that this was shown to the Selection Board and same was returned to him without any question being asked. From the confidential information supplied by Respondent, the Tribunal is fully satisfied that he was given full marks under qualification like the other candidates. This should put to rest his qualms on that issue. But Co-Respondents had more marks under the other criterion.

The appeals of the three Appellants are set aside.