

On the criterion knowledge of the job, a candidate who has been assigned duty in the post in competition should score more marks than his colleague who was never assigned such duty. To hold otherwise is unfair and unreasonable

The Appellant is a REC at the ... District Council. He has appealed to this Tribunal against the decision of the Respondent to appoint the Co-Respondent to the post of DI(R) at that District Council.

Appellant's Case

The Appellant averred that he joined the local government service on ... as REC. He was confirmed to that post onHe applied on two occasions for the post of DI (R) and he was interviewed for the second time onHowever, he was not appointed. The Co-Respondent, who was his junior, was appointed instead.

He claimed that he had twelve years' service at the District Council and he had been assigned the duties of DI (R) for a few months up to the time of the interview. He could not understand why his junior who just joined the service and had lesser length of service could be appointed over him.

He stated that he had a clean record and there were no complaints against him.

The Appellant moved that the Tribunal should declare the appointment null as the Respondent had not acted fairly and not taken into account his experience, performance, merit and suitability for the post.

Respondent's Case

Respondent stated the details of service of Appellant in different grades.

The Appellant applied in response to an advertisement dated ... for the filling of one vacancy in the post of DI (R). There were several applications and six of them were retained for an interview. Appellant and Co-Respondent were among those called.

The Respondent confirmed the qualifications of the Appellant, namely a CPE in ..., a GCE 'O' level in ..., a Certificate of Attendance in The Co-Respondent joined the service as REC on ... and was appointed on the Permanent and Pensionable Establishment 1 year later. He had all the qualifications required in the Scheme of Service. The Co-Respondent had a CPE, a GCE 'O' level.

The Respondent averred that the appointment was made by selection and that it acted fairly and objectively in the selection exercise and that all procedures had been followed scrupulously and all applicable laws, rules and regulations respected.

The Respondent moved that the appeal be set aside.

Co-Respondent's Case

The Co-Respondent decided to abide by the decision of the Tribunal.

Determination

The appointment to the post of DI(R) was done by selection. The Tribunal sought information from the Respondent on the criteria, the weightage and markings of the candidates. These were submitted to the Tribunal under confidential cover.

The Tribunal finds that the selection panel had established the criteria as follows:

- (i) Qualifications
- (ii) Personality and presentation
- (iii) Attitude(politeness, trustworthy and conduct)
- (iv) Interpersonal & communications skills
- (v) Knowledge of the Job

The Appellant and the Co-Respondent obtained full marks under the first criterion which is as to be expected as they both had a CPE and a GCE 'O' Level.

On the three other criteria the Appellant and the Co-Respondent were almost at par with Appellant having one point less in each of these criteria.

On the fifth criterion (“Knowledge of the Job”) which carried the highest weightage, the Tribunal finds a demarcation with the Co-Respondent obtaining more marks than the Appellant, which is very surprising in view of the number of years of experience of Appellant that is, more than ten years than the Co-Respondent. The Respondent had conceded in its Statement of Defence that the Appellant had much longer years of service while the Co-Respondent joined a few months before the appointment exercise. The Appellant had been on assignment of duties of DI for several months by the time of the interview. While on assignment of duties, the Respondent had conceded that the Appellant “*performed all duties as REC satisfactorily*” and the Responsible Officer of the District Council had informed the Respondent that the Appellant “*has never been under report since his appointment and has always performed his duties of REC(R) and **RDI diligently***” (emphasis ours). There was no such averment concerning the Co-Respondent precisely because he was not assigned the duties of DI during his short time at the service of the District Council.

The Tribunal concludes that the Respondent has erred in its assessment of the candidates and the markings given to the Appellant and the Co-Respondent are not what a right-minded person would expect.

The appeal is allowed and the decision of the Respondent is quashed.