

# PUBLIC BODIES APPEAL TRIBUNAL

Det27of 2016

Seniority is not an overriding criterion in a selection exercise. All depends on the criteria set out for selection.

The Appellant is a REC(Roster) at the District Council of.... He is challenging the decision of the Respondent to appoint the Co-Respondents to the post ofGMSC (Roster).

## **Appellant's Case**

The Appellant grounded his appeal on "*seniority, years experience, conduct and attendance*". In his Statement of Case, he tried to argue on grounds of religious discrimination. However, the Respondent objected to this as it was not in Appellant's grounds of appeal. This was not pursued further, the more so that the Appellant agreed that he had no evidence to show this.

The Appellant joined the Local Government service in ... as..., restyled REC in ..., and REC (Roster) in .....

He averred that he performed his duties diligently and always had a good conduct. He attended duty regularly.

He had several years in service of the local authorities. He applied for the post of FISRG (Roster) on three occasions but he was never selected. He was also not given assignment of duties while in post.

He was not satisfied that he was not selected this time also andhe reiterated his long service, clean record, his experience and his attendance at work.

He moved that the decision of the Respondent be quashed.

## **Respondent's Case**

The Respondent averred that the post was filled by selection. The Respondent conceded that the Appellant had been in local government service for several decades but the Appellant's length of service was of no relevance.

The Respondent stated that the Appellant could not refer to his previous applications for appointment as it was outside the mandatory time delay and he did not protest there and then.

The Respondent explained that there was an advertisement for the filling of the post dated...and there were 59 applications. Among the applicants, 22 were found eligible, including Appellant, and were called for interview. Following the interview, the Co-Respondents were appointed.

The Respondent maintained that it followed all the procedures and observed the provisions of regulation 13 of the LGSC Regulations and took into account "*experience, merit and suitability before seniority*".

The Co-Respondents were found to be more meritorious. They did not have adverse reports against them.

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

## **Determination**

It is agreed that the Appellant had several years service at the local government service. However, seniority is not a determining factor in a selection exercise. This may be frustrating for applicants to a post but the LGSC Regulations are clear on this. There are other criteria which the Respondent apply to assess the suitability of candidates.

For this selection exercise, the Tribunal was informed by Respondent that the criteria were:

- 1 Qualifications
- 2 Personality
- 3 Sense of Discipline/ Attitude
- 4 Communication, Supervisory & Leadership Skills and
- 5 Knowledge of the Job

The Respondent also provided to the Tribunal the weightage for each criterion and the marks obtained by the candidates, in particular the Appellant and the Co-Respondents.

The markings revealed that, on Criterion 1, they all got the same marks except Co-Respondent No 3 who had an additional qualification. Co-Respondent No 3 had a CPE like all the others but he also had a General Certificate of Education (O Level).

The Appellant and the Co-Respondents (except Co-Respondent No 2) obtained same marks for criterion 2.

The Appellant obtained same marks as Co-Respondents Nos 3 and 4 but Co-Respondents Nos 1 and 2 obtained slightly more for Criterion 3.

Two Co-Respondents obtained more marks than the Appellant on Criterion 4 but the latter obtained more marks than Co-Respondent No 3.

On the last criterion, the Appellant obtained less marks than 2 Co-Respondents but more marks than one Co-Respondent.

On the overall total, the Appellant was closely behind the Co-Respondents.

The Tribunal found that the differences in marks were small and there was nothing to show that the selection panel had erred or shown bias in its assessment.

The appeal is set aside.