

Det6 of 2016

When there is a selection exercise a new seniority list is established

Appellant's Case

The Appellant, a TAMAA at the Municipality of ..., is contesting the appointment of Co-Respondent No. 2 to the post of TAM by the Respondent.

The Appellant averred that he had no qualms that Co-Respondents Nos. 1 and 3 had been appointed to the post. The Appellant joined the Municipal Council in August ... and the two Co-Respondents joined in May ... and October ... respectively. These two officers were, therefore, senior to him. However, he was contesting the appointment of Co-Respondent No. 2 as the latter only joined the Municipal Council in September ... and was his junior.

He moved that the Tribunal quash the appointment of Co-Respondent No. 2 as the Respondent had appointed his Junior to the said post.

Respondent's case

The Respondent averred that the post was filled by promotion. After the last selection exercise took place for the post of TAM the three Co-Respondents ranked before him. He was 4th on the list. During cross examination, Appellant declared that prior to entering his appeal he did not know how they had become senior to him.

The three Co-Respondents were appointed. The Respondent maintained that it h

Determination

The post is filled by promotion and in a promotion exercise, seniority is a determining factor.

The Appellant relied on the dates he and the Co-Respondents joined service to assume that he was senior to Co-Respondent No.2. He was not aware that in the selection exercise that was carried out in 2012 for the post of TAMA there was a ranking list in order of seniority and he was 4th on the list after the three Co-Respondents. It was only after he lodged his appeal and received the Respondent's Statement of Case that he realized his ranking position. He also agreed that it was too late for him to challenge the ranking established in 2012 when he was appointed TAMA.

The appeal is set aside.