

**If marks are given under the criterion additional qualifications, the mere averment of Appellant that he is more qualified will not stand when appointees are in fact more qualified**

The Appellant is contesting the decision of the Respondent to appoint Co-Respondents Nos 1 and 3 to the post of FLDS. The four Co-Respondents were appointed to the post with effect from ... The Appellant had affirmed at the hearing that he was not contesting the appointment of the two other Co-Respondents.

**Appellant's Case**

The Appellant's grounds of appeal were "*I consider myself towards the above to be most senior, more experienced and qualified*". In his Statement of Case, he averred that he joined the Council of ... as GDR in .... He attended courses in GDRN and he was in charge of the PGDR Section as that section had no FLDS. He was, therefore, in charge of the day to day running of that section. He considered that he was more senior than the two contested Co-Respondents who were his junior at the Council and the latter only performed manual works and they were less qualified than him. He was not told that a SPR was appointed in ... to take charge of the PGDR which became a separate section following its restructuration.

**Respondent's case**

The Respondent averred that the Appellant joined the Council on ... as GDR and was confirmed to that post on ....

Co-Respondent No 1 was appointed REC on ... and REC(R) on ...

Co-Respondent No 2 was appointed LBR on ..., RM/TM on ... and HWKR (SC) on ....

Co-Respondent No 3 was appointed REC on ... and REC(R) on...

Co-Respondent No 4 was appointed LBR on .... and ATT/SATT on....

The post of FLDS was filled by selection as per the Scheme of service for the post and the candidates were required to have the

- (1) a basic certificate,
- (2) satisfactory service and
- (3) the ability to supervise workers and maintain discipline among them.

Following an advertisement, there were thirty candidates and 21 of them, including the Appellant, were found eligible and were interviewed on ... in order to assess their suitability, and the Co-Respondents were appointed. The post was filled by selection and seniority was not a determining factor.

The Respondent provided to the Tribunal the qualifications of all parties.

The Respondent averred that the interview panel took into account all the information contained in candidates' application forms. In the assessment of candidates the interview panel took into consideration other criteria, in addition to qualifications and experience. The Appellant had always performed the duties of GDR since he joined the Council. The representative of the Respondent produced the list of criteria at the Hearing and same was shown to the Appellant. The criteria were:

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

The Respondent denied that the Appellant was in charge of the PGDR section. Prior to the appointment of the superintendent of PGDR in ..., the section was under the supervision of HI and FLDS of the PH Department.

FLDS were posted in the PH Department, WFA Department and IP Department.

The Respondent averred that it complied strictly with its Regulation 13 of the Local Government Service Commission Regulations and all procedures had been followed scrupulously and according to the prescribed Scheme of Service.

The Respondent moved that the appeal be set aside.

### **Determination**

The Appellant has three grounds of appeal. The Tribunal will take them in turn.

*Ground 1- Seniority.* This ground of appeal does not hold in a selection exercise. According to LGSC Regulation 13 the Commission shall “*take into account qualifications, experience and merit before seniority in the local government service*”. The Appellant conceded that he was not aware of this.

*Ground 2- More Experienced.* It is not contested that the Appellant had wide experience in the field of PGDR since he had always been working in that section. However, the post he applied for was for the three other departments of the Council while the PGDR Section had its own structure since 2014. The two contested Co-Respondents had more experience in the REC Field of the PH Department. They, therefore, obtained much more marks under the criterion “Knowledge of the Job” which carried a high weightage among the selection criteria. The Appellant was eligible for consideration for the post of FLDS but his posting at the PGDR section did not give him an advantage over the Co-Respondents.

*Ground 3- More Qualified.* The Appellant was not more qualified than the two contested Co-Respondents as could be seen by the Tribunal in the list of qualification produced). As marks were given for additional qualifications under the criterion Qualifications, the two Co-Respondents obtained additional marks.

On all three grounds therefore, the Appellant had no comparative advantage which would have given him a chance to be appointed.

The appeal is set aside.