

When a Scheme of Service provides for an equivalent certificate, an equivalence certificate from the Tertiary Education Commission is sufficient to satisfy the requirement of qualification of candidates applying for a post.

The Appellant, a SECO is challenging his seniority ranking following the decision of the Respondent to appoint eight SECOs including Appellant himself, to the post of PICO. Co-Respondent No.1 was first on the list whereas Appellant was third.

Appellant's Case

The Appellant averred that Co-Respondent No 1 should not have been appointed to the post of PICO as he was not holder of a Diploma in ... As a consequence of this appointment his seniority position had been adversely affected. Co-Respondent No 1 would be considered first on account of his seniority position whenever vacancies would arise for the next higher post in the future. The Appellant referred to the recommendation of the Pay Research Bureau Report 2016 where it was said that promotion to the post of PICO should henceforth be from SECOs who were holders of the said diploma.

The Appellant averred that he was holder of the Diploma after 2 years study at the University of Mauritius. Co-Respondent No 1 was holder of a degree in ... which was not equivalent to the Diploma.. He stated that the Respondent should not have taken into account the ... degree which was substantially different from his Diploma.

He further averred that the possession of the Diploma was a prerequisite to any promotion to the grade of PICO and other SECOs were not promoted previously as they had not completed their Diploma course. However, at the hearing, the Appellant decided to drop this ground in his appeal.

The Appellant requested the Tribunal to quash the appointment of Co-Respondent No 1 or make any order that the Tribunal may deem proper to correct the injustice towards him.

Respondent's Case

Respondent averred that the post of PCO was filled by promotion from officers in the grade of SECO who reckon at least three years' service in a substantive capacity in the grade and who possess:

- (i) Diploma in ... from a recognized institution or an equivalent qualification acceptable to the Public Service Commission; and
- (ii) Good organizing and supervisory skills.

There were 8 vacancies for the post of PICO. However, one SECO was superseded and the Respondent appointed the other officers. They assumed duty as PICO on ..

Co-Respondent No 1 was the holder of a degree of ... and Respondent produced a document from the Tertiary Education Commission (TEC) certifying that the modules of the said degree corresponded to the modules of the Diploma ...awarded by the University of Mauritius and that it was higher in level.

As a result of supersession of one appointee Co-Respondent No 1 became 1st and Appellant 3rd on the seniority list. The Respondent denied that the appointment of Co-Respondent had adversely affected the seniority ranking of Appellant.

The Respondent was appointed in line with the amended Scheme of Service of PICO that was prescribed with effect from ... to reflect the recommendation of the PRB Report 2016. Co-Respondent No 1 was fully eligible for appointment.

The Respondent averred that the appeal had no merit and moved that it be set aside. During cross examination Counsel for Respondent obtained from the Appellant an admission to the fact that he had accepted the terms and conditions of his appointment.

Co-Respondents' Case

Co-Respondent No 1 had submitted a Statement of Defence but did not solemnly affirm as to its correctness. His Counsel did not cross examine Appellant but decided to submit to the effect that the Tertiary Education Commission (TEC), the sole

body responsible for recognition and equivalence of academic qualifications in Mauritius, had certified that the modules of his degree corresponded with the modules of the Diploma which he filed with the HR Department and could not be challenged.

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

Determination

The whole issue rests on the eligibility of Co-Respondent No 1 to the post of PICO.

The Appellant contended that Co-Respondent No 1 was not holder of a Diploma in...as was required following the recommendation of the Pay Research Bureau.

However, the Scheme of Service for the post was amended precisely to take on board this recommendation but the qualification requirement of the Scheme of Service was clear. It required a Diploma or an equivalent qualification acceptable to the Respondent. The Respondent did produce the equivalence certificate provided by Co-Respondent to it. The Respondent had found this acceptable as it was from the TEC. The Tribunal cannot question this equivalence.

Co-Respondent No 1 was, therefore, perfectly eligible for appointment. As the appointment was made by promotion, and Co-Respondent No 1 was senior to the Appellant, there is no flaw in the ranking of the appointees. Further Appellant had already accepted his appointment without reserve.

The appeal is set aside.