

Det 11 of 2019

- **It is the Tertiary Education Commission (TEC) which is solely habilitated to certify the equivalence of a qualification required by the Scheme of Service for a post.**
- **Its findings cannot be challenged.**

The Appellant is challenging the decision of the Respondent to appoint the Co-Respondent No 1 to the post of FAMO in the Ministry of ...on the grounds that she did not qualify under the Scheme of Service. Both the Appellant and the Co-Respondent have been appointed to the post of FAMO.

When the Appellant first entered his appeal, he had not been appointed but the Respondent recognised that his qualification was in fact acceptable. He was appointed and he was to take rank before Co-Respondent No 2. Despite his appointment, he decided to continue to challenge the appointment of Co-Respondent No 1 who decided to abide by the decision of the Tribunal. Co-Respondent No 2 was no longer concerned with this appeal.

Appellant's Case

The Appellant solemnly affirmed that his sole ground of appeal was that the Co-Respondent was not eligible for the post as she did not have the qualifications required in the Scheme of Service for the post. The Appellant also solemnly affirmed as to the correctness of his Statement of Case (SOC).

The Appellant averred that the Co-Respondent No 1 only had a Higher Diploma in the relevant field which was not equivalent to any of the degrees as prescribed in the Scheme of Service for the post of FAMO.

He contested the letter dated ...which the Tertiary Education Commission (TEC) gave to the Co-Respondent No 1 and which said that "*the Advanced Diploma in ... is equivalent to the BSc (Hons) in ...awarded by the tertiary institution and equivalent to the BA (Hons) awarded by a different institution*". He stated that such equivalence could only be given by the UK National Recognition Information Centre (NARIC). He

produced a document entitled ... *Qualification recognition status* concerning an overview of formal recognition held by the ... qualification. He underlined the part which said that “*NARIC will verify ... Qualification equivalence on individual application to their Statement of Comparability service*”.

The Appellant concluded that the TEC based its letter on a letter addressed to Appellant issued by a recognised Supervisory Body under the UK Companies Act 2006. This did not satisfy the NARIC and therefore it had not been shown that the Co-Respondent had the necessary qualifications as per the Scheme of Service for appointment to the post. That letter was to the effect that Appellant had been a registered student since ... and successfully passed the examinations.

Respondent's Case

The Respondent solemnly affirmed as to the correctness of its Statement of Defence (SOD) as regards the ground of appeal concerning Co-Respondent No1.

The Respondent referred to the Scheme of Service for the post and stated that the candidate had to meet the qualifications specified or an equivalent qualification acceptable to the Respondent.

The Respondent rebutted the averment of the Appellant that the TEC was not habilitated to decide on the equivalence of the Advanced Diploma of the Co-Respondent. The Respondent stated that the TEC is the official institution which can decide on equivalence of qualifications and the only recognized body in Mauritius to do so.

The Respondent relied on the advice of TEC and decided that the Co-Respondent had a qualification which was equivalent to the one in the Scheme of Service and which was acceptable to it.

The Respondent stated that the ground of appeal of Appellant had no merit as the Co-Respondent was eligible for appointment.

Determination

The whole issue relates to the eligibility of the Co-Respondent for appointment. It is not denied that the post is filled by candidates who possess the qualifications or such

other equivalent qualifications acceptable to the Respondent as described in part (a) of the Scheme of Service. The only point is whether the decision of the TEC that the Advanced Diploma of the Co-Respondent was equivalent to the degrees mentioned in part (i) (a) of the Scheme of Service is acceptable.

The Appellant is wrong in his interpretation of the document from the institution. This document refers to persons seeking equivalence of their qualifications compared with relevant qualifications. However, in the present case it is the other way round. It concerns the equivalence of a qualification *par rapport* to a local qualification. In this situation the competent authority to certify equivalence rests with the TEC which has been created for this purpose.

The TEC has decided on the equivalence of the Advanced Diploma and this has been found acceptable by the Respondent.

The eligibility of the Co-Respondent has been proven and her appointment cannot be contested.

The appeal is set aside.