

- **Seniority and assumption of duty are not selection criteria;**
- **Even if a candidate claims having more experience on these two grounds, he must also have marks on the other criteria to have a better overall marking.**
- **When a qualification is a criterion of selection those who have better than a basic qualification will be marked higher.**

The Appellant, a RECR at the District Council of..., is contesting the decision of the Respondent to appoint the Co-Respondent to the post of FLDS (SR).

### **Appellant's Case**

The Appellant solemnly affirmed as to the correctness of his Grounds of Appeal. He did not submit a Statement of Case.

His GOA were:

*“(i) The Appellant reckons ... years of service and experience as RECR (previously known as SR) and has never been subjected to any disciplinary action whereas the selected candidate only joined service in ...*

*(ii) The Appellant was assigned the very same duties of FLDS (SR) for a period of ... months starting on.... The Appellant in fact performed these duties until ... without any reproach or complaint.*

*(iii) The chosen/selected candidate was never assigned such higher duties until his appointment on ...*

*(iv) The Appellant thus reckons ... years more experience than the selected candidate and has already performed such higher duties to the satisfaction of the Council of ....”*

On being cross-examined he conceded that seniority was not a determining factor in a selection exercise. He also conceded that the fact that he was assigned the duties of the post would not give him a claim for permanent appointment to that post. However, he believed that his long years in service had given him experience and his assignment of duties would have allowed him to have a knowledge of the job of FLDS. He pointed out that he was acting as FLDS at the time of the interview.

### **Respondent's Case**

The Respondent solemnly affirmed to the correctness of its Statement of Defence (SOD).

The Respondent confirmed that the Appellant joined the service as Scavenger on ... He was appointed REC on ... and RECR on ....

The post of FLDS (SR).was filled:

*“by selection from among serving employees in the grade of RECR of the Local Authority on the Permanent and Pensionable Establishment and reckoning at least ...years’ service in the grade of REC/RECR in the Local Government Service and who satisfy the following requirements:*

- (i) the Certificate of Primary Education; and*
- (ii) ability to supervise ... who perform the REC duties and maintain discipline among them”.*

The vacancy in the post was advertised on ... by way of Local Government Service Commission (LGSC) Circular Note No of....There were ... candidates and ... of them, including the Appellant, were interviewed on ... and.... The Co-Respondent was found more suitable for the post and was appointed.

As this was a selection exercise, seniority was not an overriding criterion.

Both Appellant and the Co-Respondent did not have adverse reports against them.

The Appellant was assigned the duties of FLDS (SR) from ... to....However, assignment of duties was done for purely administrative convenience and did not give claim to permanent appointment to the higher post.

Respondent took into consideration all the information that candidates disclosed in their application forms.

The criteria for assessment of candidates were:

- (i) Experience
- (ii) Qualification
- (iii) Personality/aptitude
- (iv) Supervision and leadership skills
- (v) Communication skills
- (vi) Knowledge of the job

The Respondent averred that, in this appointment exercise, it took into account the requirements of the Scheme of Service for the post, in accordance with LGSC regulation 13(1)(b) which provides that the LGSC must take into account qualifications, experience and merit before seniority.

The Respondent averred that the candidates were assessed on their replies to questions put to them at the interview.

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

### **Determination**

The Tribunal will address the GOA.

Grounds (i) and (iv) relate to seniority and the Appellant himself conceded that seniority is not a determining factor in a selection exercise. These two points are not tenable

Grounds (ii) and (iii) concern assignment of duties and here again Appellant has agreed that such assignment of duties would not give him any claim for permanent appointment. This was made clear in the letter to him informing him of the assignment of duties. These two grounds are, therefore, *per se* not tenable.

However, the Appellant has raised the point that his 37 years in service had given him experience. In the same vein, he claimed that he was assigned the duties of FLDS (SR).and he acquired knowledge of the job.

The Tribunal, therefore, looked at the markings provided to the Tribunal under confidential cover and in particular the criteria (i) experience and (vi) knowledge of the job.

The Tribunal finds that the Appellant scored slightly less on the criterion “experience” but there was a higher margin as regards the criterion “knowledge of the job”. On the criterion (ii) Qualification, the Co-Respondent had full marks as he sat for the School Certificate and obtained credit in four subjects while the Appellant had only the CPE. The Co-Respondent had a much higher total marks than the Appellant. However, the Co-Respondent was not the only one to have scored more than the Appellant. There were several other candidates who did better.

Even if the Appellant had been given higher marks on criterion (i) and criterion (vi),on which he claimed he should have performed better than the Co-Respondent, he will on the balance of probability not have scored more than the Appellant in terms of overall marks. No injustice seems to have been done to the Appellant in the assessment exercise.

The appeal is set aside and the Tribunal confirms the decision of the Public Body.