

- **If a Scheme of Service provides for an alternative to the eligibility criteria concerning a basic qualification, no candidate can question those appointed under that alternative criterion.**
- **The Tribunal never steps into the shoes of the interviewing panel to reassess candidates.**

The Appellant, a DWER at the Ministry of ..., is contesting the decision of the Respondent to appoint Co-Respondents No 4 and No 5 to the post of DER in the said Ministry.

Appellant's Case

The Appellant solemnly affirmed as to the correctness of his Grounds of Appeal (GOA) and his Statement of Case (SOC).

His GOA related to:

- Experience
- Points received during interview
- Permit
- First hand experience
- Seniority

He attached a document to his application form which also became his SOC. He explained that he joined the Ministry in ... and he had a permit to serve in that particular job in government. He was paid an allowance for performing the duties since Co-Respondent No 5 joined the Ministry after him and the latter had no experience as he had. He stated that Co-Respondents No 4 and No 5 who were selected for that particular job of DER did not possess the basic certificate.

On cross-examination he confirmed that he also did not possess the basic certificate. He averred that doing that job required more care. He also agreed that the appointment was made following an interview. He, however, denied that he was made to read from a piece of paper to show proof that he was literate.

Respondent's Case

The representative of the Respondent solemnly affirmed as to the correctness of Respondent's SOD.

The Respondent averred that the Appellant joined the service as CWRG on ... 2008 and was appointed on the permanent and pensionable establishment of the Ministry on He was appointed DWER onThe Appellant had performed the duties of DER for administrative convenience against payment of an ad hoc allowance on three occasions.

Assignment of duties would not give any claim for permanent appointment.

The post of DER was advertised on ... and the closing date for application was The appointment was to be made by selection from among employees on a permanent and pensionable establishment of the Ministry who possessed the basic certificate if not, consideration would be given to employees on the Permanent and Pensionable Establishment of the Ministry who showed proof of being literate.

Twenty applications were received and only five applicants had the basic certificate. As a result, all 20 applicants were convened for an interview and were assessed on the following criteria;

- (i) Qualifications
- (ii) Possession of the required permit
- (iii) Experience and
- (iv) Work and conduct

The Co-Respondents were appointed. Out of the five having a basic certificate one was not appointed and his appointment was kept on hold as he had a disciplinary matter pending against him. Another one did not come to the interview. Co-Respondents Nos 4 and No 5 who did not possess the basic certificate were appointed.

On cross-examination, the representative of the Ministry, who was also part of the interview panel, stated that the interview was done first for the five candidates having the basic certificate. Three of them were appointed as one did not attend the interview and the vacant post was kept pending for the other candidate who was facing disciplinary matter.

After that all those who did not have the basic certificate were interviewed and Co-Respondents Nos 4 and No 5 were appointed. The Representative of the Ministry was clear that there were two sets of candidates for the interview.

The representative affirmed that those without the basic certificate had a reading test in English as proof of being literate.

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

Determination

The appointment to the post of DER was done by selection. According to the prescribed Scheme of Service, candidates had to be in possession of a basic certificate but the Scheme of Service also made provision that, in the absence of candidates with a basic certificate, candidates would also be considered if they could show proof of being literate.

In the present case there were ... candidates and ... had the basic certificate and they were convened for interview as a separate group and considered for appointment in the first instance before opening up the unfilled vacancies to those who did not have the basic certificate.

The markings of all candidates in each group were sought to ascertain the fairness in the selection exercise and the Tribunal finds that the Respondent had been fair to the candidates by proceeding according to the Scheme of Service. The selection was in order and there was no procedural impropriety. The Appellant cannot put in question the fact that two of the appointees did not possess the basic certificate.

As regards the appointment of Co-Respondent No 5, the Appellant agreed that this was a selection exercise and candidates were assessed on the four criteria adopted for the selection exercise. Points were given and the two who were not in possession of a basic certificate obtained more marks than the Appellant and were appointed. The Tribunal will not step into the shoes of the Respondent on the matter. There was no reason to put in question the assessment of the selection panel which shows that prejudice had been caused to the Appellant.

The appeal is set aside.