

It is the performance of applicants at the interview which determines who deserves to be appointed.

The Appellant, a HWRS at the Municipal Council of ..., is appealing against the decision of the Respondent to appoint the Co-Respondent to the post of Assistant PPFR hereafter called the post.

Appellant's Case

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

His GOA were:

- (i) I am in the service for the past 7 years against 3 years for the nominee
- (ii) Have experience in the specialised work.
- (iii) Having followed courses on related subjects at MITD (Mauritius Institute of Training and Development).

In his SOC he averred that he joined the Municipal Council of ...on ... as HWR and OPWR. On ... he was appointed HWR for three years. He was then further appointed HWRS.

From ... to ... he was at the PR and PG Section as HWR. He had experience and knowledge in PG. He was based at the LSE.

Appellant claimed that he had the minimum requirements for the post. He had a certificate of attendance from the MITD for having followed a related training programme. He had sat for the National Certificate in PG and was left with an ultimate examination (Level 3).

He further averred that the Co-Respondent joined the service on.... He was senior to the Co-Respondent as he had eight years of service. He, therefore, had more

experience, knowledge and aptitude than the Co-Respondent. He performed well at the interview.

He considered that his qualifications, experience, dexterities and skills made him meet the required status to be promoted to the post.

He prayed that the Tribunal quashes the appointment of Co-Respondent.

On cross-examination, he stated that although he was doing mostly MSN works, he had to do PG works on site. When he was asked where he got the tools to do PG works he stated that he brought his own tools to the work site.

He stated that he performed well at the interview but conceded that he was not aware how the Co-Respondent fared at the same interview.

Co-Respondent cross-examined Appellant and asked him if he was aware that each time there was PG jobs to do, Appellant's supervisor would make a request for a specialist, Appellant maintained that he was doing PG tasks.

Respondent's Case

The representative of the Respondent solemnly affirmed to the correctness of Respondent's Statement of Defence (SOD).

According to the SOD the Appellant was a HWR from ... to ... and a HWRS as from ... till date. The Co-Respondent was HWR from ... to ... when he was appointed Assistant PPR till date.

Both possessed knowledge and experience in the field of PG but Co-Respondent had 3 years experience while Appellant had only two years in such capacity. There was no scheme of service for the post of Assistant PP as there was a single Scheme of Service following the consolidation of the various specialisation for the post. This Scheme of Service required candidates for the post to:

- (i) Possess the Certificate of Primary Education or who show proof of being literate;
- (ii) Produce evidence of having the knowledge, aptitude and experience in the specialisation chosen

Following an advertisement for filling vacancies in the post, there were 13 candidates and six of them (including Appellant and Co-Respondent) were found eligible. The eligible candidates went through an interview. One Mr C was appointed. Subsequently, it was decided to fill another vacancy and Co-Respondent was appointed with effect from

The Respondent gave the qualifications of the Appellant and the Co-Respondent. It made no admission concerning the averment of the Appellant that he was taking part in the National Certificate in PG as this was not disclosed by the Appellant in his application form.

The Respondent averred that the appointment was made by selection in accordance with the Scheme of Service for the post and seniority was not a determining factor as per regulation 13(1)(b) of the LGSC Regulations.

The candidates were assessed as per their performance at the interview and the most meritorious candidate was appointed. The criteria for the interview were:

- (i) Qualifications
- (ii) Experience
- (iii) Knowledge of health and safety
- (iv) Knowledge and aptitude of the specialisation

The Respondent moved that the appeal be set aside.

Co-Respondent's Case

The Co-Respondent solemnly affirmed to the correctness of his SOD.

He averred that he was permanently posted to the PG section while the Appellant, despite being in the PR and PG Section, was mainly doing MSN tasks. Appellant was rarely doing PR and PG tasks.

He averred that he was skilled and experienced in PG as this was his routine work. He stated that the fact that Appellant followed a training programme does not necessarily entail that the Appellant had the knowledge, aptitude and experience as specified in the advertisement. Seniority was not mentioned in the advertisement and the fact the he was junior to Appellant did not matter.

He maintained that he received on the job training from the specialists with whom he worked.

He was certain that he did well at the interview as the question asked related to his day to day work.

Determination

The appointment was made by selection and seniority is not a determining factor.

The Tribunal, therefore, sought and obtained under confidential cover the markings of the Appellant and the Co-Respondent.

On criterion (i) Qualifications both Appellant and the Co-Respondent obtained same marks as they both had a Basic Certificate. There was a question of whether the Appellant had passed the National Certificate in PG (level 3).and whether he produced it in his application form. After long exchanges it was clear that the Appellant had not completed Level 3 and he only produced a certificate of attendance for the said course.

On criterion (ii) Experience Co-Respondent obtained more marks than Appellant. The Co-Respondent worked for more years in PG than the Appellant. The Appellant was not convincing that he was doing PG duties while posted in the MSN section.

On criterion (iii) Knowledge of health and safety the Co-Respondent scored slightly higher marks. While this does not appear as a requirement for the post, and its inclusion as a criterion is questionable, it does not affect the overall result as there was a small margin on this criterion and the difference in total markings between Appellant and the Co-Respondent was largely in favour of Co-Respondent. This could not affect the final outcome.

On criterion (iv) knowledge and aptitude for the job Co-Respondent scored higher marks than the Appellant.

The Tribunal does not find any flaw in the assessment and the decision to appoint the Co-Respondent.

The appeal is set aside.