

**The Tribunal will not reverse its own Determination concerning the same selection exercise but is open to hearing evidence concerning specific grounds of appeal of an Appellant against another Co-Respondent not directly concerned in the previous cases.**

This is an appeal concerning the appointment of Co-Respondent as Deputy RTR. This appeal had originally been consolidated with another appeal in which the Tribunal had proceeded to listen to arguments on a point of law to the effect that there was an abuse of process. The Respondent having given up that point of law concerning Appellant in this case, the Tribunal had decided to listen to this case separately on the merits.

### **Appellant's Case**

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

- “(i) Better Qualifications*
- (ii) More experience*
- (iii) Marking/Selection Criteria*
- (iv) Composition of the interview Board. One of the members was familiar with some of those who applied for the above post.*
- (v) My Performance Appraisal (PMS) has always been very positive”*

He expatiated on his GOA in a SOC and an amended SOC by giving details of his qualifications and of his experience for which he obtained three incremental credits.

He averred that his Performance Appraisal (Confidential Report) has always been positive.

Regarding ground (iv) he averred that one member of the board was familiar to most of the candidates since he had been working as RTR in different departments where they worked.

His second point in his SOC and amended SOC had not been raised in his GOA and will not be considered.

### **Respondent's Case**

Respondent's Representative solemnly affirmed as to the contents of the Statement of Defence (SOD) of Respondent in which Respondent had averred that the post of Deputy RTR was advertised to qualified officers in the grades of Senior EDRS and EDRS in accordance with the Scheme of Service.

Respondent averred that all candidates interviewed were eligible for the post of Deputy RTR and that all information disclosed by Appellant relating to his experience had been taken into consideration.

Respondent also averred that experience was not the only criterion of selection.

Respondent had annexed to its SOD a statement of the particulars of service and qualifications in respect of Appellant and Co-Respondent.

As regards the three increments paid to Appellant, the Respondent averred that this was done according to a PRB Recommendation in its 1998 Report. He was paid for the experience acquired by him before joining the service.

Respondent averred that it had acted in conformity with the powers vested in it by section 89 of the Constitution and respected its own Regulation 14 and 19(b).

The Respondent averred that in previous appeals made concerning the same selection exercise, the Tribunal had already scrutinised the criteria of selection and the markings and found in its Determination in the previous connected case that they were fair and reasonable.

Respondent moved that the appeal be set aside as it had no merit. On being cross-examined by Counsel for Appellant, Respondent's Representative agreed that he had additional qualifications more than Co-Respondent.

### **Co-Respondent's Case**

Co-Respondent merely swore to the correctness of his SOD in which he had detailed his qualification and his working experience.

## Determination

There have been several appeals concerning the same selection exercise for the post of Deputy RTR.

The Tribunal had already listened to two appeals and issued two Determinations. In both appeals the Tribunal scrutinised the criteria, weight attached to each criterion and markings of all candidates.

In the first case, the Tribunal did indeed find that *“the markings seem to be fair and reasonable”* except for a wrong marking concerning one Co-Respondent who was marked under a wrong criterion.

The Tribunal had then requested the Respondent to correct that marking and readjust the merit list. In the second case, the Tribunal maintained its previous Determination.

The Tribunal explained to all parties that it would not be able to go against its previous Determination concerning the same selection exercise. But it was open to the idea of hearing Appellant to find out if there was any new averment which would concern the Appellant and Co-Respondent specifically in this case.

GOA 4 concerning the member of the panel who was allegedly familiar with some candidates cannot be upheld. The Tribunal does not consider this point as being a serious ground of appeal as, in a small country like Mauritius, the mere fact of knowing candidates cannot imply that there was bias.

The Tribunal has re-examined the markings in particular on the points raised by Appellant’s Counsel with regard to additional qualifications and experience based on the first two GOAs. Both Appellant and Co-Respondent had full marks on these two criteria. However, Co-Respondent did better under the other criteria which were as follows: Communication and Inter-personal Skills, ECL Policies/Planning, Knowledge of duties, Managerial and Organising Skills, and Leadership and Motivation Skills. His overall markings were much higher than those of Appellant. But there is no evidence of any unreasonableness or unfairness.

The Tribunal cannot intervene any further. It therefore sets aside the appeal.