

**Qualifications should be according to the Scheme of Service.**

The Appellant is challenging the appointment of Co-Respondent to the post of DPPS in the public body.

**Case of Appellant**

The Appellant solemnly affirmed to the correctness of his Grounds of Appeal (GOA). He did not submit any Statement of Case (SOC) as he considered his GOA to be sufficient.

His GOA were as follows:

1. Application was not made online by the Co-Respondent as per advertisement.
2. Co-Respondent is not a degree holder.

Appellant was cross examined and he admitted that his first GOA is related to the mode of applying to the post and not to the selection process. He did not agree that there was nothing on the advertisement which suggested that applications not made online would be rejected. He added that it is clearly indicated in the instructions for online applications that incomplete, inadequate and inaccurate application may entail elimination of candidates. He also agreed that the Scheme of Service for the post subject matter of this appeal does not require that applicants should be degree holders. He admitted that the Co-Respondent has more experience than him. He stated that in the past, candidates were not called for interview because they did not submit their applications online. However, he admitted that this had not been cited in his GOA. He finally stated that his main concern was the mode of application.

**Case of Respondent**

The representative of the Respondent solemnly affirmed as to the correctness of the Statement of Defence (SOD) which was filed in the present appeal.

In the SOD, the Respondent averred that:

- (a) On ..., the Responsible Officer of the Ministry reported one vacancy in the grade of DPPS and recommended that the post be filled by selection from among officers in the grade of MPS who reckon at least 3 years' service in a substantive capacity;
- (b) On ..., the vacancy was advertised to qualified serving officers by way of PSC Circular Note.
- (c) both online applications and manual applications are accepted for posts which are advertised electronically.
- (d) 6 candidates were interviewed and, the Responsible Officer of the Ministry was informed that the Respondent, having considered the suitability of the qualified candidates, had decided to appoint the Co-Respondent to the post in a temporary capacity for a period of 6 months in the 1<sup>st</sup> instance, as from the date of assumption of duty.
- (e) Co Respondent was offered appointment to the post and he assumed duty on the ....

Respondent further averred that as per the Scheme of Service for the said post a degree is not a requirement and that the Co-Respondent possesses the required qualifications specified in the Scheme of Service. It was added that it acted in all fairness and in conformity with the powers vested upon it by section 89 of the Constitution and the Public Service Commission Regulations 1967. It moved that the appeal be set aside.

Under cross-examination, she stated that in the advertisement, it is mentioned that candidates should submit their applications electronically but, in some instances, where candidates encounter problems while applying online, the candidate may call the recruitment section of the Respondent for any help. She confirmed that 15 applications were received for the post and only 6 candidates were eligible and were called for interview. Only one candidate submitted his application on hard copy. She added that in practice Respondent accepts both online applications and applications on hard copies.

Under re-examination, she stated that Co-Respondent explained the difficulties he encountered to fill the application online and a covering letter was attached to his application.

### **Case of Co-Respondent**

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

He averred that the first ground of appeal is merely a statement, and Appellant has failed to indicate why this statement has been raised as a ground of appeal and what his complaint is. He also added that the application procedure was prescribed as per Circular Note. He explained that his application was submitted in the following circumstances-

- (i) He made several attempts to submit his application electronically, but his password was constantly being rejected;
- (ii) He attempted to reset his password with the help of the Government Online Centre Support team, but his password was yet again rejected;
- (iii) He then contacted the Respondent to explain the issues he was encountering with the online application system;
- (iv) He was advised by the Respondent to send his application as a hard copy through PSC form 7 along with an explanatory letter which he did accordingly.

As regards ground 2 of the appeal, he averred that the relevance of this statement is obscure and he reiterated that this ground of appeal did not amount to any ground of appeal at all as it is not a requirement of the post that the candidates should be degree holders. He maintained that he fully met the criteria for selection as per Circular Note No ... which provides as follows:

*“by selection from among officers in the grade of MPS who reckon at least three years’ service in a substantive capacity in the grade and who*

*(a) Have a high sense of discretion and judgement;*

*(b) Have in-depth knowledge of the job policies and related legislations;*

*(c) Possess initiative and leadership qualities; and*

*(d) Possess training potentials”*

He further averred that he was fully qualified and eligible to apply for the post as he holds a Diploma in the relevant field and having 16 years of experience as MPS compared to the three years' experience of Appellant in the same post. He mentioned that he had organised and conducted training courses at the level of Directorate in the relevant field for induction courses for newly recruited officers, advanced training for AMPS and MPS in the same field. He finally averred that the Respondent acted fairly and reasonably in the appointment exercise.

He was not cross-examined by any party.

### **Determination**

The Tribunal has given due consideration to the GOA as well as the defence of the Respondent and Co-Respondent.

#### Under Ground 1

The Respondent averred in its SOD and deposed under oath that both online applications and applications on hard copies through PSC form 7 are acceptable for any application. In this case, the Respondent confirmed that in fact Co-Respondent applied for the post through hard copy after consultation and advice of the Respondent. It was also confirmed that Co-Respondent attached a letter to his application explaining the difficulties that he met to file his application online.

In these circumstances, the Tribunal is of the view that a candidate cannot be penalised due to technical or technological problems the more so as the representative of the Respondent admitted that the Respondent accepts applications made in hard copy if applicants cannot apply online. Therefore, this ground fails.

#### Under Ground 2

It has been established that as per the Scheme of Service of the post, a degree is not required to be eligible to the post. In any event, the Appellant stated that his main concern is ground No 1. This ground also fails.

Both grounds having failed, the Appeal is therefore set aside.