

Seniority is not a determining criterion in a selection exercise.

In this case, the Appellant appeals against the decision of the Respondent to appoint the Co-Respondent as FSR.

The Appellant swore to the correctness of his Grounds of Appeal and Statement of Case.

The Appellant raises the following 9 grounds of appeal:

- “1. The decision of the Commission is unfair and not in order.*
- 2. I am more senior than the appointee.*
- 3. I have no adverse report.*
- 4. I have more experience, skills and merit.*
- 5. I have further acquired experience in a post higher than the promotional post through acting ship of duties.*
- 6. I have higher qualifications than the minimum required.*
- 7. I have been performing similar to those set in the scheme of duties relevant to the promotional post.*
- 8. I have performed well at the interview.*
- 9. I want the Tribunal to look into the markings”.*

The case of the Appellant is set out in his Statement of Case. He avers that he is more senior than the Co-Respondent, has more qualifications, experience, skill and merit, has acquired experience in a post higher than the promotional post through actingship and he has performed well at the interview. In evidence, he substantiated his averments.

The representative of the Respondent solemnly affirmed as to the correctness of the Statement of Defence.

The Respondent in its Statement of Defence and in evidence highlighted that the appointment was made by selection of employees reckoning at least 5 years service and satisfying the following requirements:

- (i) Certificate of Primary Education
- (ii) Satisfactory service
- (iii) The ability to supervise workers and maintain discipline among them.

Both Appellant and Co-Respondent were eligible for the post of FSR. Although the Appellant had acted as OSR, the duties of the two posts are not similar. All experiences disclosed by the Appellant regarding his experience was taken into consideration.

The Tribunal has considered the appeal.

Ground 1

There is no evidence that the decision is unfair and not in order.

There is no merit in Ground 1.

Ground 2

Although the Appellant may well be senior to the Co-Respondent, seniority is not a criterion for the present appointment which is a selection exercise.

Ground 2 has no merit.

Ground 3

It is true that the Appellant has no adverse report. This is equally true of the Co-Respondent. The fact that he has no adverse report does not affect the appointment exercise.

Ground 3 has no merit.

Ground 4

The experience, skills and merit are matters to be assessed by the Respondent. To the extent that the Respondent does not act illegally in exercising its assessment, the Tribunal cannot substitute itself to the Respondent.

Ground 4 has no merit.

Ground 5 and 7

The post of OSR, in which the Appellant acquired experience, has a different set of duties attached to it. The fact that the Appellant may have acquired experience in the post of OSR is therefore immaterial.

The evidence shows that the Appellant has been carrying out the duties of the post to which he is appointed.

Grounds 5 and 7 have no merit.

Ground 6

One of the selection criteria was qualification. It is up to the interviewing panel to determine the relative strength of each candidate's qualifications and in the absence of any illegality in exercising such discretion, the Tribunal cannot interfere.

Ground 6 has no merit.

Ground 8

The Appellant's performance at the interview is to be assessed by the Interview Panel. In the absence of any evidence of illegality, the Tribunal cannot take a view as to the Appellant's performance.

Ground 8 has no merit.

Ground 9

This is not a ground of appeal, and the Tribunal cannot take a view on same.

The Appeal is therefore set aside.