

Seniority cannot equate to years of service especially when it applies to different grade.

The Appellant is appealing against the decision of the Respondent to appoint the Co-Respondents to the post of OSR in the Council of....

Case of Appellant

Appellant solemnly affirmed as to the correctness of his grounds of appeal and his statement of case. He submitted the appeal with five grounds of appeal which are textually reproduced below:

- (1) More Senior*
- (2) More Qualified*
- (3) More Experience, Skills & Merit*
- (4) Performed well at interview*
- (5) I want the tribunal to look at my marking.” SIC*

Appellant explained in his Statement of Case (SOC) that he joined the Council in ... and possesses the Primary School Leaving Certificate and a certificate of form III. At the time he applied for the post, he was a CSR. He also stated that he was assigned the duties of OSR for the period 10th September 2018 to 5th October 2018, 12th July 2021 to 20th July 2021 and 20th September 2021 to 15th October 2021. He also claimed to be the senior most officer compared with the two Co-Respondents.

Appellant maintained during cross examination that he is more experienced than the Co-Respondents but he admitted that Experience is not the sole criterion in a selection exercise. However, he stressed that his number of years of service in the Council should be taken into consideration and must be considered as experience acquired in the job. He also admitted that assignment of duties does not give a claim for permanent appointment in the post.

Case of Respondent

The Representative of the Respondent solemnly affirmed as to the correctness of its Statement of Defence (SOD) wherein, Respondent confirmed that Appellant joined the service in 1986 as well as his qualification. It stated that both Co-Respondents hold GCE O-level and both held the post of AN/SAN at the time of application.

Respondent explained in the SOD that the scheme service provides that the post of OSR is filled by selection from among employees of the Authority holding a substantive appointment and: -

1. Possess the Certificate of Primary Education; and
2. Reckon at least 10 years of service.

The Respondent averred that seniority is not an overriding criterion in a selection exercise and the Appellant as well as the Co-Respondent satisfied the qualification requirements for the post.

Under Cross Examination, the representative of the Respondent maintained that the years of service was taken into consideration and she admitted that an employee gained experience with longer years of service and assignment of duties. However, she explained that experience is not the sole criterion in a selection exercise.

Case of Co-Respondent No 1

Co-Respondent No 1 solemnly affirmed as to the correctness of his SOD and stated that he joined service at the Council in 1994 and that he met all requirements of the Scheme of Service. He also maintained that seniority is not an overriding criterion in a selection exercise.

Case of Co-Respondent No 2

Co-Respondent No 2 solemnly affirmed as to the correctness of his SOD and stated that he was appointed as LER in 1994 and subsequently promoted to AN/SAN. He also explained that he satisfies the requirement for the post of overseer. He averred that he is also holder of a GCE Leaving Certificate and therefore more qualified than Appellant.

Determination

Under ground 1

It is the contention of the Appellant that he is more senior than the Co-Respondent. However, Respondent maintained that seniority is not a criterion in a selection exercise. In this appeal, the application for the post of OSR was open to all employees of an Authority. As such, it did not concern any specific cadre where seniority has its real meaning. It is years of service that the Appellant was referring to and therefore seniority was not an issue. This ground fails.

Under ground 2

It was not disputed that the Co-Respondents were holders of GCE while the Appellant has studied up to Form III. Appellant could not claim that he was more qualified than the Co-Respondents. This ground also fails.

Under ground 3

It has been admitted by Appellant that Experience was not the sole criterion in a selection exercise. As regards skills and merit, there was no evidence adduced before the Tribunal that the Appellant had more skills and merit. Ground 3 fails.

Under ground 4

Ground 4 reads "*Performed well at Interview*". This ground questions the manner in which the interview was assessed. However, there is no evidence that the interview exercise or the assessment of the interview was carried out in an unreasonable manner.

Ground 4 therefore has no merit.

Under ground 5

This is not a Ground of Appeal on which the Tribunal can make a determination. It merely expresses what the Appellant wants.

All grounds having failed, the Tribunal sets aside the appeal.