

The Tribunal has no jurisdiction to re-assess the merit of an Appellant as this is a subjective matter for the interviewing panel to mark upon.

The Appellant is challenging the decision of the Respondent to appoint the Co-Respondents to the post of MH in the public body.

Case of Appellant

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

The GOA is as follows:

- “1. I have carried out the duties of DMH since October 2016 with utmost professionalism, have unblemished reports and commendable records.*
- 2. My PMS score speaks for itself. I have always obtained remarkable performance scores which is above the required threshold for promotion.*
- 3. My experience to lead a team and my hard work as an instructor to raise the performance of all institutions where I have worked.*
- 4. My ability to work with the community is outstanding.*
- 5. The interview was carried out for a period of 3 months or so. Questions went public many other candidates benefitted from it.*
- 6. I was the first among the 3000 or so candidates to be interviewed (19th July 2019). Others got undue advantage due to exposure to the questions set.*
- 7. My interview went well and I can produce the answers to the questions set.*
- 8. My hard work and dedication towards the institutions of Mauritius have not been rewarded.*

9. *The criteria for the assessment of candidates through interview only*". SIC

In his SOC, he expatiated on some of the GOA. He averred that the selection exercise was carried out in breach of his legitimate expectation. His experience and participation in office had always been a plus for the performance of the institutions He believed that the interview procedures were not done in a fair manner, the selection exercise was fundamentally flawed and that since the interview was carried out over a 3 months period, questions set to be asked, went public through Facebook and social media.

Under cross-examination, he admitted that the post was filled by selection and it was not a promotional post. He also admitted that the Co-Respondents were not under report. He agreed that he had no evidence to prove that questions put during the interview were leaked in the social media. He did not agree that the Respondent acted in all fairness in the appointment exercise. He confirmed that he was not present when the Co-Respondents were interviewed.

Case of Respondent

The representative of the Respondent solemnly affirmed as to the correctness of its Statement of Defence (SOD). She averred that the vacancies to the post of MH were filled by selection and 920 candidates were eligible for interview. The interview was carried out on the basis of the requirements of the Scheme of Service for the post and the criteria of selection determined by the Respondent in accordance with Regulation 17 of the Public Service Commission Regulations. All relevant information disclosed by the candidates were taken into consideration. Seniority is not an overriding criterion and experience was not the sole criterion in a selection exercise.

Under cross-examination, the representative of the Respondent stated that markings are not communicated to candidates.

Case of Co-Respondents

Co-Respondent No 7 who was the only one present, solemnly affirmed as to the correctness of the SOD in favour of Co-Respondents Nos 1-4, 6-20, 23-26 and 28. Co-Respondents Nos 5, 21 and 22 abided by the decision of the Tribunal. Co-Respondents No 27 was absent.

In the SOD, the Co-Respondents denied all the averments of Appellant and averred that they had failed to detect any reasonable ground for upsetting the decision of the Respondent and moved that the appeal be set aside.

Determination

Grounds 1, 2, 4 and 8

These grounds are more or less interlinked and will be dealt together. The capabilities, skills and dedication claimed by Appellant are assessed subjectively by the interviewing panel. The Tribunal has no jurisdiction to reassess the Appellant on these qualities. Therefore, these grounds failed.

Ground 3

The Appellant referred to his experience and it is not disputed that experience was not the sole criterion. The Respondent stated that the experience of the Appellant as claimed in his application form was duly taken into consideration. This ground also fails.

Grounds 5, 6 and 7

These grounds refer to the interview process. It is not disputed that the interview took some three months but there was no evidence that the questions put to candidates were leaked on social media. Appellant admitted that he was not aware of any candidates who may have leaked the questions to other candidates. Further, there were only 920 candidates who were called for interview and not 3000 as averred by Appellant. The Appellant was aware of his performance during the interview but could not know the performance of other candidates as he was not present in the interview room when they were interviewed. Hence these grounds too failed.

Ground 9

The Respondent made it clear that the criteria of assessment was decided by the Respondent by virtue of its powers under Regulation 17 of the Public Service Commission Regulations. As the Respondent acted within the parameters of the Regulation, this ground has no merit.

All grounds of appeal having failed, the appeal is set aside.