

The onus to demonstrate competence claimed in a selection exercise rests upon the Appellant.

Appellant appealed against the decision of Respondent to appoint the Co-Respondent for the post of “APPFT” in the Council.

Appellant’s case

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

Ground 1

“Whether the appointment of Co-Respondent is unfair, arbitrary and against the rules of neutral justice.

Ground 2

Whether the markings of the respective candidates were attributed fairly and in a balanced manner.

Ground 3

Whether the markings of the respective candidates failed to give due weight to qualification for the post of APPFT.

Ground 4

Whether the LGSC failed to take into consideration my extensive years of experience (almost five years) in the fieldCouncil and my qualification in the field of Domestic ... installation and Domestic Sanitary Appliances Installation) (Scholarship certificates CPE, SC) and is not considering me for the post of APPFT.

Ground 5

Whether the LGSC overlooked the fact that the qualification of the Co-respondent is less extensive than mine in the related matter”. (SIC)

He further expatiated on his GOA in his SOC to the effect that he had a legitimate expectation in as much as he possesses all the required qualification and experience for the post. He averred that throughout his employment, he had worked as assistant in the department of plumbing compared to the Co-Respondent who had worked only in assisting to install solar panels. Moreover, he stated that the markings allocated to him should reflect towards his qualifications and experience.

Under cross-examination, he agreed that with regards to experience, the Respondent shall take into consideration such experience acquired during employment with the Respondent only. He also agreed that both the Co-Respondent and himself do meet the minimum requirements for the post. He did not agree that he did not do well at the interview as he answered all the questions put to him. He agreed that the candidate receiving higher marks would be selected. He conceded that he is not aware as to how the Co-Respondent performed during the interview. He further stated that he is more qualified than the Co-Respondent and that he was in the relevant section since 2018 until 2023 compared to the Co-Respondent who was in the Highways section. He agreed that the qualification that he obtained was in the field of domestic and not in commercial premises.

Respondent's case

The Representative of the Respondent affirmed to the correctness of the Statement of Defence (SOD). Respondent expatiated on its SOD and averred that both the Appellant and the Co-Respondent satisfied the requirements of the Scheme of Service for the said post. It also averred that the appointment of the said post was made by selection and candidates were assessed on qualifications, experience, personality, knowledge and aptitude of the job. The Representative of the Respondent stated also that it is the prerogative of the selection panel to decide on the performance of each candidate during the interview based on the set criteria produced. She also produced a report stating that both the Appellant and Co-Respondent have experience in PPFG.

Under cross-examination, she agreed that experience is gained if someone is working as PFT for a period of 5 years. She also stated that according to the Responsible Officer, both the Appellant and the Co-Respondent have acquired experience in PPFG and this was taken into consideration.

Co-Respondent's case

Co-Respondent solemnly affirmed to the correctness of his SOD and was cross-examined and stated that when he assumed duty in 2013 he was assigned to do pipe repairs and even had to do it outside normal working hours whenever required. He agreed that he did not have any qualifications in relevant field. Finally, he stated that the Appellant is currently working under his instructions.

Determination

The Tribunal has taken due consideration to the GOA, SOC as well as the SOD and also submissions of learned Counsel.

Ground 1

Under this ground, Appellant's main contention is that, compared to the Co-Respondent, he has worked more in the plumbing field than the latter together with more qualifications. However as conceded by the Appellant, both of them held the minimum requirements as per the Scheme of Service and the more so, the Responsible officer found that both of them had the required knowledge, experience and aptitude for the post. Finally, they were both convened for the interview and as averred by the Respondent, the onus to demonstrate the experience and competence claimed to the selection panel was on the Appellant. Hence, the Tribunal does not find that there has been any unfairness, arbitrariness or anything against the rules of natural justice. As such ground 1 has no merit.

Ground 2 and 3

Grounds 2 and 3 will be dealt together as they relate to the marking exercise. Indeed, the marking sheet was submitted to the Tribunal under special cover and it is noted that marks have been consistently allocated to each of the candidates according to the criteria set out. As such Grounds 2 and 3 fail.

Ground 4 and 5

Both of the grounds canvassed relate to experience and qualifications for the post. As averred by the Respondent, the selection exercise was done in a fair and impartial manner under the same criteria for all candidate and that all qualifications were given due consideration. In addition, the appointment was

made on the basis of the scheme of service, performance at the interview and in accordance with regulation 13(1)(b) of the Local Government Service Commission Regulations 1984. Over and above, as mentioned above, the marks allocated to the candidates do reflect their experience and qualifications. As such both grounds fail.

In light of the above, as all the grounds of the appeal have failed, the Appeal has no merit and is set aside accordingly.