

**The onus is on the Appellant to satisfy the interviewing panel of the skills that he possesses. Otherwise, the Tribunal does not re-assess the skills of the Appellant.**

The Appellant is challenging the decision of Respondent to appoint the Co-Respondents to the post of IPA in the Public Body.

### **Case of Appellant**

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

Her GOA were as follows:

- “1. *More Senior than the appointed officer whether in service or in the ISA cadre;*
2. *More experience and skills;*
3. *More qualified;*
4. *Possess more organizing, administrative, communication and leadership skills;*
5. *Performed well at interview;*
6. *No adverse report;*
7. *The interview process was biased;*
8. *I want the Tribunal to look at the markings”.*

In her SOC, she expatiated on her GOA and averred that she had been assigned the duties of IPA on several occasions since May 2017. She has performed the duties of IPA for a period of 6 consecutive months until the appointment exercise. She averred that she reckoned more time spent on assignment of duties as IPA than Co-Respondent No 2 who had only a cumulative period of about 2 months.

She also averred that to enhance the quality, skill, knowledge and experience, she applied for LLB courses where she was examined on several module which are related to the duties of IPA.

She further averred that prior to the interview, there was a dispute in connection with one of the duties of IP to carry out inquiries and that her views and that of the GRR differ. The GRR formed part of the panel. He did set questions to her on the same issue which was in dispute between them. She felt that she had been wrongly assessed on the criterion "duties and responsibilities".

She concluded that she had all the merits for the post and that she should have been appointed as IPA in lieu of Co-Respondent No 2.

Under cross-examination, she maintained that she had more experience in the job as she had been assigned the duties of IPA. She disagreed that the Co-Respondent may have done better than her during the interview as she felt that she did well during the interview. However, she admitted that she was not aware how Co-Respondent No 2 performed during the interview as she was not present there.

As regard the issue of bias, she stated that the GRR who sat in the panel of interview should not have put questions on an issue which was in dispute between herself and the GRR. She maintained that this might have caused her prejudice as she may not have been rated properly. She moved that the appointment exercise be quashed

### **Case of Respondent**

The representative of the Respondent solemnly affirmed as to the correctness of its Statement of Defence (SOD). The Respondent averred that the post of IPA was filled by selection from officers in the grade of ISA who reckon at least three years of service in a substantive capacity in the said grade. All relevant information as disclosed in the application forms of all candidates were taken into consideration. It also averred that seniority is not an overriding criterion in a selection exercise by virtue of Regulations 14(1)(c) of the Public Service Commission Regulations and that assignment of duties is made on grounds of administrative convenience and does not, in any way, give rise to claim for permanent appointment to a higher post.

It further averred that no dispute was reported at the level of the Public Body with regards to the conduct of enquiries by IPA and thus there was no contentious issue at the time of the selection exercise. The selection panel was done in conformity with Regulation 16(1)(b) of the Public Service Commission Regulations. The list of criteria of selection used to assess the candidates in the said selection exercise was produced as well as the reports of the GRRA for all candidates which were sent to the Respondent. It moved that the Appeal be set aside.

Under cross-examination, she agreed that if a candidate had performed a longer period of assignment of duties in the post concerned, he would get more experience and skills in the job. She did not agree that when the Applicant had done an LLB degree, she obtained more sound legal knowledge.

### **Case of Co-Respondents**

Co-Respondent No 1 would abide by the decision of the Tribunal whereas Co-Respondent No 2 submitted a SOD. She solemnly affirmed to the correctness of her SOD. In the said SOD, she provided her employment history, starting from his first appointment as Clerical Officer up to her appointment as IPA in a temporary capacity. She averred that she possesses the required qualifications set out in the circular inviting applications for the post. She also averred that she was assigned the duties of IPA on two occasions and that if the Appellant was assigned duties of IPA for a longer period than her, it was because the Appellant was senior to her in the seniority ranking in the grade of ISA. She further averred that the best evaluation of the performance of each candidate rests with the Respondent and the selection exercise was free of bias.

Under cross-examination, she did not agree that having a degree or a diploma in law would help better in litigation and enhance a sound understanding of the law. She stated that being a holder of a degree in Economics, this would also help. She also stated that having performed a longer period of assignment of duties did not necessarily bring more skills.

### **Determination**

The Tribunal, having considered all the issues raised by the parties, will analyse each ground of appeal separately.

### Under ground 1.

It refers to the seniority placing in the rank of ISA. It was not disputed that Appellant was senior to Co-Respondent No 2. It was also not disputed that the appointment was made through a selection exercise. The Respondent averred that the appointment was made in compliance with Regulation 14(1)(c) of the Public Service Commission Regulations which provides that appointment will be made on the basis of qualifications, experience, merit and suitability before seniority. Hence this ground fails.

### Under Ground 2

It was the contention of the Appellant that she had more experience and skills than the Co-Respondents. A close analysis of the markings submitted for the eyes of the Tribunal only has shown that the marks allocated under the criterion experience was fair and that the Respondent had taken into consideration the experience claimed by each candidate. This ground has no merit and is set aside.

### Under ground 3

The Appellant claimed to be more qualified. It is not disputed that all candidates satisfied the requirement of the Scheme of Service in terms of qualifications. No marks were allocated to any candidate for additional qualifications. Therefore, this ground also failed.

### Under ground 4

Appellant averred that she possesses more organizing, administrative, communication and leadership skills. The onus was on her to satisfy the interviewing panel that she possesses these skills better than the other candidates. The Tribunal cannot re-assess these skills when the interview panel had already allocated marks on these skills. The moreso, the Tribunal is satisfied that the GRRR reported that all candidates possess these skills. This ground also fails.

#### Under ground 5

Appellant was of the opinion that she performed well at the interview. Likewise, Co-Respondent No 2 also claimed that she did well at the interview. In any event, the Appellant agreed that she would not know how the Co-Respondents performed during the interview. This ground is irrelevant and should be set aside.

#### Under ground 6

This ground refers to adverse report. Respondent averred that no candidate was under adverse report and, therefore, there is no reason to determine on this ground. This ground also failed.

#### Under ground 7

This ground refers to bias. The Appellant averred that the GRRRA, who was on the panel of interview, should not have put questions to her on an issue which was in dispute between them. She believed that she may not have been rated properly. On the other hand, the Respondent replied that there were no contentious issues at the time of interview. It was not disputed that the GRRRA acted as advisor in the panel of interview and he was perfectly entitled to put questions. The Tribunal cannot ascertain what type of questions were put to candidates or whether the same questions were put to all candidates. However, an analysis of the marking sheet has revealed that the GRRRA has been fair in his allocation of marks and that all candidates were rated according to their experience and knowledge claimed. It is also to be pointed out that the GRRRA has reported that all candidates were suitable for appointment as IPA. There is no evidence of bias. This ground also fails.

#### Under ground 8

The Appellant made a request for the Tribunal to look into the markings. This is merely a request and not a proper ground of appeal. This ground too fails.

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