

The Public Bodies Appeal Tribunal has no jurisdiction to hear appeal following a call for application by public advertisement

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

The Appellant submitted an appeal dated 17th March 2023 against the appointments of Co-Respondents No 1 to 9 and another appeal dated 1st June 2023 against Co-Respondent No 10. Both appeals will be dealt together as it emanates from the same selection exercise.

Respondent filed an objection to the appeals which read as follows:

The appeals relate to an appointment made following a call for application for the post of ADR by public advertisement No ... of 2022 in breach of Section 3(3), Public Bodies Appeal Tribunal Act 2008.

Co-Respondent No 5 raised also an objection on the same line which read as follows:

The Tribunal has no jurisdiction to hear and determine the present appeal pursuant to Section 3(3) of the Public Bodies Appeal Tribunal Act 2008 in as much as:

- (a) Applications for the post of ADR were invited from qualified candidates by way of both Public Advertisement No ... of 2022 and Public Service Commission Circular Note ...of 2022; and
- (b) There was only one selection exercise of candidates having applied through either the Public Advertisement or the Circular Note and resulting into a single merit list.

Determination

Section 3(3) of the Public Bodies Tribunal provides that:

“No appeal shall lie to the Public Bodies Appeal Tribunal (PBAT) where the appeal relates to an appointment made following a call for application for an office by public advertisement”.

In this present matter, applications were invited both from the Public Sector i.e in service as well as from the public. The same issue was raised in the case of **P. Pothunnah v/s Public Bodies Appeal Tribunal (SCR 108582) dated 25 May 2015** and the Supreme Court held that *“the appointment was made following a call for application for an office by public advertisement and is excluded from the jurisdiction of the PBAT by section 3 (3) of the PBAT Act”.*

The Tribunal does not find it necessary to hear the case and that the objections of Respondent and Co-Respondent No 5 were well taken. Therefore, both appeals are set aside in accordance with Section 6(4)(a) as it considered them to be trivial and frivolous.