

Experience being a core criterion should be properly assessed.

Appellant appealed against the decision of Respondent to appoint the Co-Respondents for the post of DVR (HMUR) in the Municipal Council of Vacoas-Phoenix. The Appellant made a first appeal on the ... against Co-Respondent Nos 1 and 2 and another one on the ... against Co-Respondent No 3. Being given both appeals from the same Appellant concern the same selection exercise for the same post, the appeals have been consolidated and a single determination is being given.

Appellant's case

First Appeal

Appellant solemnly affirmed to the correctness grounds of appeal (GOA) and his statement of case (SOC). His GOA are as follows:

“Appellant was more eligible for the post of DVR (HMUR) for the following reasons:

- 1. The Appellant has more experience inasmuch as:
 - a. Appellant was appointed DVR on the 20th June 2001*
 - b. Since the 18th of January 2008, the Appellant was called upon on and off to replace DVR in scavenging lorries which were above 5 tons;*
 - c. Appellant has been driving lorries above 5 tons since July 2017.**
- 2. The Appellant possessed the licence for goods vehicle as required and this since the 7th June 1995.*
- 3. The Local Government Service Commission has failed to “take into account qualifications, experience and merit before seniority in the local government service” upon the appointment of Mr. ... and Mr.... which is in breach of Regulation 13(b) of the Local Government Service Commission Regulations 1984” (SIC)*

He further expatiated on his GOA in his SOC to the effect that he has been driving Roller up to 12 tons capacity and also driving scavenging lorries on a daily basis and has over 18 years of experience as DVR at the Municipality of Vacoas Phoenix. He

further averred that Co-Respondent No 1 has instead worked as a labourer for nearly 6 years at the garage followed by nearly 2 years as DVR in the specific unit and that Co-Respondent No 2 has recently joined the Municipality of Vacoas Phoenix in the year 2017 and has been working at the Garage driving lorries of less than 5 tons. He finally stated that experience in driving heavy duty vehicles has not been taken into consideration and thus he is of the view he more qualified for this post.

Second Appeal

Appellant's GOA are as follows:

“Appellant was more eligible for the post of DVR (HMUR) for the following reasons:

1. *The Appellant has more experience than Mr. ... inasmuch as*
 - (a) *Appellant was appointed DVR on the 20th June 2001 while ... was appointed DVR on the 04th April 2016;*
 - (b) *Appellant has been driving lorries above 5 tons since July 2017 while Mr. ... has been driving lorries above 5 tons since April 2018.*
2. *The Appellant possessed the licence for goods vehicle as required and this since the 07th June 1995 while Mr... obtained same since the year 2010 only.*
3. *The Local Government Service Commission has failed to “take into account qualifications, experience and merit before seniority in the local government service” is in breach of Regulation 13(b) of the Local Government Service Commission Regulations 1984” (SIC)*

In his second SOC, he reiterated the averments made in his first one and further averred that Respondent has not given consideration to the Determination D32/2018 issued by the Tribunal on the 16 October 2018.

Under cross examination he stated that he has more than 18 years of experience and agreed that it was a selection exercise. He also argued that experience is one of the criteria, the others being qualifications, personality, communication and knowledge of the job. He also stated that he was not aware that Co-Respondent No 2 did join the Municipality of Vacoas Phoenix in 2017 as DVR. He did not agree that the Respondent did take all relevant considerations in the selection exercise.

Respondent's case

The Representative of the Respondent affirmed to the correctness of the Statement of Defence (SOD). The Respondent expatiated on the SOD and she averred that the Appellant reckons 18 years of Service in the grade of DVR since 2001, she further averred that all information disclosed by Appellant had been taken into consideration along with experience and she stated that there were other criteria for selection, namely, qualifications, personality, communication skills and knowledge of the job. The Respondent also averred that:

Co-Respondent No 1 in the first appeal has been a DVR as from 04 April 2016.

Co-Respondent No 2 in the first appeal has been DVR as from 21st June 2017.

Co-Respondent in the second appeal has been a DVR since 04 April 2016.

The Respondent maintained in its SOD that all information disclosed by the Appellant and the Co-Respondents have been taken into consideration, all procedures have been followed, and that the Respondent has complied with the applicable law.

Under cross examination, the Representative of the Respondent stated that she was not involved in the interview panel and it is the prerogative of the Commission to assess the candidates.

Co- Respondents' case

All Co-Respondents have informed the Tribunal that they will abide to the decision of the Tribunal.

Determination

Grounds 1, 2 and 3 of both appeals

The grounds are interlinked and the contention of the Appellant is that he is challenging the Respondent's decision on the ground that he has more experience than the Co-Respondents.

The marking sheet was submitted to the Tribunal under special cover for our consideration.

We note that the Appellant has been appointed as DVR since 20th June 2001 compared to the Co-Respondents who have been appointed as DVR on the

04th April 2016, 21st June 2017 and 04 April 2016 respectively. There is, therefore a difference of more than 15 years between the years of service of the Appellant as DVR and those of the Co-Respondents. We consider that this should have been reflected in the markings but this was not the case inasmuch as the markings allocated to Co-Respondent No 1 and 3 are higher than those for the Appellant whereas those allocated to Co-Respondent No 2 are at par with the Appellant. It is clear that the criterion “experience” which is one of the core criteria of Regulation 13(b) of the Local Government Service Commission Regulations has not been properly assessed.

The Tribunal fails to understand why a candidate who reckons 18 years of service in the grade of DVR, scores lower marks under the heading ‘Experience’ than a candidate with only 3 years of service as DVR.

In the light of the above, the Tribunal has concluded that the selection process is flawed. It therefore, quashes the appointment of the Co-Respondents and remits back the matter to the Respondent.