

Seniority is not a determining factor in a selection exercise.

Appellants appealed against the decision of Respondent to appoint the Co-Respondent for the post of “WIS” in Local Government Service. Both appeals were heard together and only one determination is delivered.

Appellants’ Case

Case of Appellant No. 1

Appellant No 1 solemnly affirmed as to the correctness of his Grounds of Appeal (GOA):

His GOA is reproduced as follows:

- “1. * First and Foremost I have 33 yrs of Service in the LGSC**
- 2. * 19 years of experience as WI**
- 3. * possess the Qualifications from the City & Guilds**
- 4. * Many times performed Actingship as WIS**
- 5. *Qualified for Interview as per advertisement from those appointed before 2008” SIC**

He did not submit any statement of case. Under cross examination he agreed that the Co-Respondent was qualified to be called for an interview. He also agreed that he is not aware as to how the Co-Respondent did at the interview. He conceded that in an interview process, the selection panel not only take into consideration seniority and experience but also merit and suitability. He stated that he has doubts as to whether the Respondent did act in all fairness within the legal parameters in relation to the selection exercise. He did agree that all the candidates were equally treated in the selection exercise but pinpointed that he did well in the said exercise. He finally agreed that he provided all the information required to the Respondent for the purpose of the selection exercise which the Respondent duly took into consideration together with his performance at the interview.

Case of Appellant No. 2

Appellant No 2 solemnly affirmed as to the correctness of his Grounds of Appeal (**GOA**) and his Statement of Case (**SOC**).

His GOA is reproduced as follows:

“The Appellant was the most suitable and the most senior candidate for the post of WIS having been appointed WI since May 1999 and having regularly assigned the duties of the higher position since 12 Nov 2007 his latest assignment of duties was until 13 May 2023” SIC

He further expatiated on his GOA in his SOC to the effect that he has 24 years of working experience which is more than the Co-Respondent. He further averred that he has performed several periods of assignment of duties.

Under cross examination, he agreed that assignment of duties does not give any claim for automatic promotion. He also agreed that he was not present when Co-Respondent was interviewed and it is possible that he did better than him at the interview. He further agreed that the Respondent acted within the legal parameters and that the selection exercise was done in all legality and fairness

Respondent's Case

The Representative of the Respondent affirmed as to the correctness of the Statement of Defence (**SOD**). She expatiated on the SOD and averred that both the Appellants and the Co-Respondent were eligible for consideration for the post of WIS and following the selection exercise, the Co-Respondent was found more suitable. The Respondent also averred that both Appellants had the years of service, qualifications with respect to the said post. Further she averred that despite the fact that Co-Respondent had been assigned duties of WIS for a longer period than Appellant No 1, this did not give any claim to appointment for the assigned post. Finally, she averred the appointment was made in accordance with the existing Scheme of Service together with their performance in the interview. She also produced the list of criteria used for the selection exercise.

Under cross examination, she stated that there is a Note 1 in the Scheme of Service mentioning that those already in post prior to 2008 will be taken into consideration. She also stated that during the acting ship of both the Appellants and Co-Respondent, none of them did receive any negative feedback. She stated that the

responsibility to demonstrate that they were more suitable for the post was on candidates. She stated that he was not aware of the questions asked to the candidates during the interview.

Co-Respondent's Case

Co-Respondent solemnly affirmed to the correctness of his SOD where he averred that he was appointed as Assistant WI since 05 November 2002. He also mentioned that he is duly qualified for the post of WIS. He finally averred that he has experience inasmuch as he has been assigned the duties of WIS and does not have any adverse report.

Under cross examination he agreed that Appellant No 2 is more senior than him but did work in all relevant departments of Public Infrastructure. He finally added that he has two certificates from City & Guilds compared to Appellant No 2 who has only one.

Determination

The Tribunal has given due consideration to the GOA, SOC as well as the SOD. We shall deal with the grounds of both appellants altogether as they are inter-related which are as follows:

Grounds of Appeal No. 1, 2 and 5 of Appellant No 1

These grounds relate to years of service, experience and eligibility. The Tribunal notes that Appellant and the Co-Respondent were qualified under the Scheme of Service to be able to be considered for the post of WIS and both of them have the experience as WI. The years of service of both Appellant and Co-Respondent were duly considered. As such all the above grounds fail.

Ground of Appeal No. 3 of Appellant No 1

This ground relates to qualification. It is not denied that the Appellant possessed the qualification as per his ground of appeal. However, no evidence was adduced that the Co-Respondent did not have the relevant qualifications as per the Scheme of Service and as such this ground fail.

Ground of Appeal No. 4 of Appellant No 1

This ground refers to assignment of duties. It is noted that both Appellants and Co-Respondent have been entrusted with such higher responsibilities but this does

not give a claim for any permanent appointment. Furthermore, The Tribunal notes that Co-Respondent performed more assignment of duties than Appellant No 1 and there has been no adverse report against either party. Hence this ground does not have any merit.

Ground of Appellant No 2

It is noted that that within the sole ground of Appeal, Appellant No 2 averred that he was most senior candidate and have been regularly assigned duties of higher position. With regards to seniority, this is not a determining factor in a selection exercise. Further it was not disputed that Appellant No 2 did perform the duties of WIS but at the same time, Co-Respondent did as well perform such higher duties. Further, the Respondent stated that it acted within the legal parameters and that the selection exercise was done in all legality and fairness which was confirmed by the Appellant.

In light of the above, as all the grounds of the appeal for both Appellants have failed, both appeals have no merit and are set aside accordingly.