

**The criteria of selection are done by the Respondent.**

Appellant appealed against the decision of Respondent to appoint the Co-Respondent to the post of “DAA” in the NOA.

**Appellant’s Case**

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

*“1. Appointment of Mr. ...in the post of DAA should be set aside, quashed or reversed inasmuch as the appraisal exercise failed to properly consider the marks to be allotted to me on the following basis:*

*(a) The filling of the post is based on PSC Regulations 14(1)(c) “ie qualifications, experience, merit and suitability for the office in question”;*

*(b) I am more qualified and has more experience than Mr. ...for the said post;*

*(c) I am more suitable for the post in view of my training, my unblemished track record, the post that I has occupied and my senior position within the NOA.*

*2. I was unduly prejudiced inasmuch as my assignment of duties as DAA was delayed due to a contradiction between NOA office Circular No. 12 of 2022 referenced .../ADM/OFCIR of 16 September 2022 and PSC Regulations 22(4), such that I was assigned duties as DAA in February 2023.*

*3. I had a legitimate expectation that I would be appointed for the post, since:*

*(a) Previously, the post of DAA has always been filled on a seniority basis;*

*(b) Having been assigned the duties of DAA during which time I issued 2 ... certificates, 2 letters of Engagement, 5 management letters, Bank circularization letter, start date for audit and supervision of 3 ... assignment, which is far more that what Mr. ... has done in the time that he was assigned duties” **SIC***

He further expatiated on his GOA in his SOC to the effect that he has more experience than the Co-Respondent inasmuch as he was appointed as PA in January 2012 compared to the Co-Respondent who was appointed as PA in January 2015. He also listed the various ministries and authorities where he was assigned duty as Team Leader and Supervision. He further averred that he attended various Public Accounts Committees. Moreover, he averred that he was never subject to any bad conduct and

has good PMS points for the past 5 years. He also added that he was prejudiced as his assignment of duties as DAA has been delayed due to a circular by the NOA and that he has only been assigned duties after the closing date of application for the post and the interview for the post of DA was held on the 04<sup>th</sup> April 2023. He finally averred that previously the appointment to the post of DAA has always been offered to the most senior officer and that the Co-Respondent is junior to him.

Under cross-examination, he agreed that the current exercise was one of selection where seniority is one of the criteria and there are several factors to be taken into consideration in such type of exercise. He also agreed that the Co-Respondent also fulfils the pre-requisites in terms of qualifications to apply for this post. Finally, he agreed that he was not the senior most officer.

### **Respondent's case**

The Representative of the Respondent affirmed to the correctness of the Statement of Defence (**SOD**) and produced the criteria of selection. The Respondent expatiated on the SOD and averred that the said post is filled by selection and not by promotion. Furthermore, both the Appellant and Co-Respondent met the qualifications which made them eligible for the interview for the said post and that they were both favourably reported upon in the Performance Appraisal Forms for the last 3 years. It was averred that assignment of duties for a post is made on grounds of administrative convenience and this does not give rise to a claim for a permanent appointment to the post of DAA. Further, the Respondent averred that all documents/information disclosed by the Appellant in his application form were taken into consideration and no prejudice had been caused to any candidate. Finally, it was averred that the Appellant is not the senior most officer in the grade of PA.

Under cross-examination, the Representative of the Respondent maintained that there is no record available of any Rodrigues assignment in relation to the Appellant. She also stated that the criteria of selection are established by the Respondent. She maintained that as per the Scheme of Service, the appointment of DAA is done by selection.

### **Co-Respondent's case**

The Co-Respondent affirmed to the correctness of his SOD where he averred that he reckons more than seven years of experience as PA and as such he is eligible

for the post of DAA. He also averred that he has acted as Team Leader for various ministries and authorities and had never been subject of any adverse report.

Under cross-examination he agreed that the assignment of duties was performed after the closing date of the application.

### **Determination**

The Tribunal has given due consideration to the GOA, SOC as well as the SOD.

### **Ground 1**

Under this ground, the issue of experience and qualification are being challenged. Appellant's main contention is that he has more experience than the Co-Respondent. The marking sheet was submitted to the Tribunal under special cover and it is noted both the Appellant and Co-Respondent have been allocated maximum marks under the criterion experience. Moreover, both Appellant and Co-Respondent hold the required qualifications as per the Scheme of Service and had no adverse report against them. Hence this ground fails.

### **Ground 2**

With regards to this ground which relates to assignment of duties, it is to be noted that such assignment of duties is done on administrative convenience and this does not give a rise to a claim for a permanent post. In any event, the assignment of duties performed by both the Appellant and Co-Respondent were post the closing date. As such this ground also fails.

### **Ground 3**

Under this ground, the Appellant is challenging the appointment exercise. The Tribunal notes that as per the Scheme of Service, the appointment is done by selection and not by promotion. Moreover, Regulation 14(1)(c) of the Public Service Commission Regulations states that factors to be taken in account are qualifications, experience, merit and suitability before seniority. Furthermore, Respondent averred that all information and documents provided by the Appellant were taken into consideration. Hence this ground 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.