

A prayer decreeing that a report be declared null and void was not granted as it was considered to be premature.

The Appellant, was appointed to the post of ...In his Statement of Case filed before this Tribunal he mentions certain facts and also a report. In the same document he prays for a judgement “decreeing that the report be declared null and void”.

It must be mentioned that this report was placed before this Tribunal during the pre-hearing stage, and no evidence has yet been adduced to either confirm or deny its contents.

In his Statement of Defence, the Respondent is raising a preliminary objection in law to the effect that the above prayer (of the Appellant) “be set aside as it is not within the purview of the Tribunal to declare the report ...null and void.”

We have considered the argument of Counsel for the parties on this preliminary objection to set aside the prayer, at this preliminary stage of the proceedings.

It is abundantly clear from Section 3(1) of the Public Bodies Appeal Tribunal Act and Section 91A of the Constitution (Amendment) Act 2008 (which creates this Tribunal) that the jurisdiction of this Tribunal is limited to hearing and determining appeals made by public officers against any decision of the Public Service Commission. In the same vein, this Tribunal is empowered, inter alia, to quash the decision of a public body or confirm it. It may in the same way “make such order as it deems appropriate” (vide Section 8(4)(d) of the PBAT Act 2008.

It is our considered view that the report , already placed before this Tribunal at the pre-trial stage and the weight to be given to it at this stage is most certainly a matter of conjecture.

In our view, after careful consideration of the Submission of Counsel on this issue, we find ourselves unable to grant the motion of the Respondent at this preliminary stage of the proceedings.

This appeal is therefore to proceed for hearing on the merits.