

## FR6 of 2013

**Issue of Jurisdiction: The Tribunal cannot adjudicate on issues concerning of Schemes of Service except to see if they have been complied with.**

Appellant has appealed against the existing Scheme of Service for the appointment to the post of ... which, according to him, should have been amended before any further appointment was made for that post

The issue came up as to whether the Tribunal has jurisdiction to entertain the appeal.

Counsel for Appellant, referring to section 3(1) of the PBAT Act submitted that the jurisdiction of the Tribunal was limited to appointment, promotion and disciplinary actions. Referring to Regulation 15 of the Public Service Commission Regulations, Counsel also highlighted that a Scheme of Service can very often stand on its own and does not have to be connected to an appointment exercise. Regulation 15 (1) and (3) read as follows:

**15** (1) *The Commission shall, where a scheme of service is to be prescribed for a public office, consider and agree to the statement of qualifications and duties for, and, where appropriate, the mode of appointment to, the public office before the scheme of service is prescribed.*

(3) *The scheme of service shall specify the salary attached to, the qualifications required for and duties of, and where appropriate, the mode of appointment to, the office to which it relates.*

Referring to previous meetings made with the Mediation and Conciliation Commission of the relevant Ministry, in presence of the Public Body (PB) concerned, amongst others, the Appellant stated that he was offered the opportunity to either go for judicial review or request his Ministry that the Scheme of Service be amended. The Appellant chose the second option and is now appealing against the new recruitment based on the same Scheme of Service as before since the PB did not amend same,

despite Appellant's belief that they would do so, following discussions between parties before the said Mediation and Conciliation Commission

Counsel for Co-Respondent submitted that the PSC can only proceed with the appointment exercise based on an existing Scheme of Service. He further stated that the Appellant was free to proceed with legal actions against the PB before another forum. In the absence of any Court judgment to the contrary, the PB could only proceed according to the prescribed Scheme of Service.

### **Findings**

The jurisdiction of the PBAT is limited to what is spelt out in section 3(1) of the PBAT Act. An Appellant who is aggrieved by the decision of the PSC or LGSC in relation to an appointment exercise or disciplinary measures taken against him can have recourse to the Tribunal. However, it is not within the purview of the Tribunal to look into schemes of service and decide on whether they are fair or correct or the contrary. The Tribunal's jurisdiction in relation to Schemes of Service is only limited to ensuring that appointments or promotions are made according to existing prescribed Schemes of Service.

In the circumstances, the Tribunal accepts the views of the Respondent and Co-Respondent and finds that the PBAT has no jurisdiction to entertain any claim by the Appellant with regards to the Scheme of Service and the necessity to amend same before an appointment is made.