

Respondent having mislaid the application form of the Appellant, the whole exercise was flawed and a new selection exercise had to be carried out.

The Appellant is CFTM at the Municipal Council of.... He lodged an appeal before this Tribunal following the appointment of the Co-Respondent as Supervisor (... Section) as he was not invited for the interview.

The post was filled by selection and the Appellant averred that he applied for this post and that he should have been called for interview as he was eligible for consideration for appointment.

He was adamant that he had put in his application form that he possessed a certificate in.... The Respondent rebutted that this was not the case as in the application form which they received from the Appellant the space for additional qualification was blank. This explained why he was not called for the interview as the Scheme of Service required candidates to have a certificate in....

In view of the conflicting versions of the Appellant and the Respondent the Tribunal requested the Respondent to produce the original application form sent by Appellant direct to the Respondent and the other original that was sent through the Responsible Officer(RO) of the Municipality of The application form was filled in duplicate as was always the case for officers already in employment at a local authority. The Respondent was also requested to bring a representative of the Municipal Council of ... to enlighten the Tribunal on the matter.

When the case was called afresh, the representative of the Respondent conceded that in the application form that was transmitted to it by the Responsible Officer of the Municipal Council of ... there was mention of Appellant having the required Certificate in... In fact, the RO had to transmit the application form after filling LGSC Form 10. In that Form 10 the RO had certified that the Appellant had the certificate in ... as posted at section 12 of the application form. The representative of the Municipal Council confirmed that the Council had ascertained that the Appellant had that certificate from the Appellant's file in their possession.

The Respondent stated that it had only the application form that was sent to it directly by the Appellant and on the basis of this application form the Appellant was not called for interview as it was not shown in the application form that he had the required certificate. The selection exercise was done and the Co-Respondent was appointed. It was after the selection process was completed, and on the insistence of the Appellant that he had the certificate in..., that there was a full search at the Commission. The second original of the application form was found in a bunch of application forms for filling of the post. The Respondent did not deny that there was a mishap in the handling of the application forms without giving a plausible explanation on how this could have happened. The Respondent left it in the hands of the Tribunal to take a decision on the matter.

The Co-Respondent averred that the onus to properly fill in the application form was on the Appellant and he should not be penalized if the Appellant or the Respondent had failed in the submission or the processing of the application. It was clearly stated on the application form that applicants should read carefully the notes and instructions to candidates before filling the application form.

Counsel for the Appellant found that it was proper for the Appellant to have appealed as he was qualified and the Respondent had the information about his qualifications but the application form was mislaid at Respondent's place. He said that, had the Appellant been called for interview, as he should, he would have produced his certificate.

It was established that the form that was sent to the Respondent by the Appellant did not contain the information on Appellant's certificate in ... in its section 12 "Other qualifications as laid down in the advertisement". But in the other original section 12 was duly and clearly filled in to show that the Appellant had that certificate. Therefore, had the second original not been mislaid, the Respondent would have been in possession of the information that the Appellant was qualified and eligible to be considered for the post. The Appellant would have been called for interview. The fact that in one of the originals the information was missing should not be fatal to the Appellant. This would not have happened if the scrutiny of application forms prior to calling candidates for interview was done properly. The

more so as the witness representing the Local Authority produced a certificate signed by the RO of the Municipality of ... to the effect that *"I confirm that the particulars given under items 1-5, 8, 12 and 14.1 (ii) of the application form are correct"*. The relevant section was section 12 and the Respondent cannot ignore this certificate, otherwise its relevance can be questioned.

The Tribunal, therefore, rules that the fact that one candidate who was eligible for the post was not considered, the selection exercise was flawed. This in no way casts any doubt on the merits or otherwise of the Co-Respondent who was selected.

The Tribunal allows the appeal, quashes the decision of the Respondent to appoint the Co-Respondent and directs the Respondent to carry out a fresh selection exercise which includes the Appellant.