

- **An Appellant who did not apply for a post cannot challenge any appointment to that post for lack of *locus standi*.**
- **The Tribunal has no jurisdiction concerning Schemes of Service**

The Appellant is a Principal PRER at the Ministry of ... (hereafter referred to as the Ministry). He has lodged an appeal to this Tribunal contesting the appointment by selection to the post of ACPREAR to ..., the Co-Respondent. His grounds of appeal are:

*“1. Appeal against the advertisement Circular of ...*

*2. ... does not fall within the duties of ACPREAR.*

The Respondent moves that the appeal be dismissed as:

*“(a) the Appellant has no locus standi in the present matter;*

*(b) the subject matter of the grounds of appeal do not fall within the jurisdiction of the Public Bodies Appeal Tribunal”*

There was an advertisement for the filling of the vacancy in the grade of ACPREAR by way of PSC Circular Note No ... dated ...referred to by the Appellant in his appeal. There was a selection exercise and the Co-Respondent was appointed to the post. There was a Notification of Appointment issued by the Ministry on ... which led to the present appeal. The Appellant conceded that he did not apply in response to this advertisement.

Counsel for the Respondent refers to the Constitution Amendment Act Section 91 A setting up the Tribunal and argues that the Tribunal has jurisdiction on appeals relating to appointments and disciplinary actions taken by public bodies falling under the ambit of the Tribunal. She draws extensively on extracts from the Hansard and the points made by the Prime Minister on the boundaries of the Tribunal and the need not to clog the system with trivial, frivolous and vexatious issues. In this case, the Appellant did not apply for the post. The Appellant cannot, therefore, contest the decision of the Respondent to appoint the Co-Respondent. He is not an aggrieved

party. The Appellant claims that he is aggrieved by this decision but in no way buttresses his stand to justify why he has any locus in the matter. The Appellant cannot appeal against the advertisement that appeared for the filling of the vacancy. The Appellant must appeal against a final decision relating to an appointment made by the Respondent

The Appellant on his part states that he is not conversant with law. He only feels aggrieved that the Co-Respondent has been appointed and he finds this unfair. He insisted that the Tribunal gives a ruling so that he can decide on further legal action.

The Tribunal finds that the Appellant has no *locus standi* to challenge this appointment or contest the advertisement and rules accordingly.

The second leg of the appeal relates to ...within the duties of the post of ACPREAR. Counsel for Respondent again refers to section 3 (1) of the Public Bodies Appeal Tribunal Act which establishes the jurisdiction of the Tribunal only to appointment and disciplinary action. The Tribunal has no mandate to entertain appeals that fall outside these two defined areas. The duties of the post are spelt out in the Scheme of Service for the post and the Tribunal has no jurisdiction to adjudicate on matters concerning Schemes of Service which have been prescribed following discussion between the relevant parties, which includes Trade Unions. The Appellant cannot bring this issue to the Tribunal. The Appellant does not say more on the matter except that he wants a ruling from the Tribunal and he will seek review from a higher court.

The Tribunal rules that it has no jurisdiction on matters relating to a Scheme of Service.

The Tribunal finds that the appeal is frivolous but the Appellant was allowed a hearing for transparency's sake and on compassionate grounds.

The appeal is dismissed.