

## **Ruling 08 of 2016**

**When read as a whole, the gist of grounds of appeal can be understood to mean that Appellants are challenging the outcome of a written examination, the Tribunal will proceed with the hearing of the case on the merits. This is done in view of the fact that the Tribunal applies the rules of natural justice.**

Following the non-appointment of the Appellants to the post of OGT, the said Appellants have submitted to the Tribunal an appeal on the following grounds:-

- Because of the absence of transparency following the written competitive examinations.
- Because I was not communicated with my results following the said examinations.
- Because the absence of the publication of results may lead to the selection of an unmeritorious candidate.
- Because I was not notified of the appointment exercise. It was communicated to my Department.

The Respondent has moved that the present appeal be dismissed and has raised a *plea in limine* as follows:-

- The said grounds of appeal do not amount to Grounds of Appeal given that they relate to alleged 'absence of transparency' as regards the written examination, non-communication and non-publication of results and notification.
- The Tribunal has no jurisdiction in relation to the 'Grounds of Appeal' which do not relate to any decision of the Respondent pertaining to an appointment exercise.
- The appeal is trivial, frivolous, vexatious and constitutes an abuse of process.

The Tribunal has received written submissions from Counsel for Appellants 1, 2 and 3 and from Counsel for Respondent.

The Tribunal has taken into consideration the submissions of both Counsel with regards to the plea in *limine litis* and does not find it necessary to reproduce these submissions.

Section 3 of the PBAT Act states clearly that the Tribunal shall hear and determine an appeal made by any public officer, or any local government officer, against any decision of the Public Service Commission or the Local Government Service Commission, as the case may be, pertaining to an appointment exercise or to a disciplinary action taken against that officer. It is a fact that the above grounds of appeal relate mostly to communication of the examination results, notification of same and notification of appointment. However, in a gist, the grounds of appeal can be interpreted as the Appellants challenging the outcome of the written examination and thereby indirectly challenging their non-appointment. In a spirit of fairness and taking into account the laws of natural justice, the Tribunal will therefore allow the Appellants to proceed with their case on that ground.

The points in *limine litis* raised by the Respondent are at this stage rejected.

The case is to proceed on the merits.