

No. JR 01 of 2017

If a Scheme of Service provides that a minimum qualification is required for a post, but in a NOTE, it specifies that, should no applicant possess the minimum qualification, consideration will be given to those who do not hold that qualification, all those who do possess the qualification will have priority over the others.

The Appellants have lodged an appeal before the Public Bodies Appeal Tribunal on the grounds that they have not been convened to any interview for the post of DER in the Ministry of ...

Appellant No.1 stated that he was given to understand that the post would be assigned based on seniority and he could not understand why he was not appointed.

Appellant No. 2 stated that he had the permits required for the post as well as the necessary experience and qualification.

Appellant No. 3 stated that he had the required permits and he also met the required qualifications, seniority and meritocracy conditions.

Appellants' Case

The Appellant listed the details concerning his service and added that:

- For the present selection exercise, he was not called for an interview;
- Considering that he has six years of experience as acting DER and he has 8 years in the public service, he believes that the selection of junior workers is unfair.

Appellant No. 2 highlighted on the fact that he

- was not convened for any interview;
- has experience as Acting DER;
- as per Note 1 in the Scheme of Service he was called for interview by other Ministries in the past.

Appellant No.3 stated that

- he was convened for an interview before for the post of CPR despite not having the basic certificate;
- he possessed a ... Training Certificate;
- he was not convened for interview.

A preliminary objection in law was raised by Respondent as follows:

“PRELIMINARY OBJECTION IN LAW

Respondent moves that the present appeals be dismissed in as much as the Appellants, who do not possess the basic certificate, which is one of the requirements of the Scheme of Service, were not eligible for the post of DER.”

Respondents' Case

The facts borne out by the Respondent's statement of defence is as follows:

- (a) The requirement of the Scheme of Service to be eligible for the position of DER is to possess the basic certificate;
- (b) Should no eligible candidate possess the basic certificate, any candidate who is literate will be considered;
- (c) It was borne out from the Statements made before the Public Bodies Appeal Tribunal from the Respondent's representative that 24 applications were received, out of which 17 held the basic certificate and were thus convened for an interview. The remaining candidates who did not possess the basic certificate were not convened for an interview;
- (d) All those appointed possess a basic certificate;
- (e) None of the Appellants hold a basic certificate.

The Ministry's representative further confirmed that none of the Appellants possess a basic certificate. All those who applied for the post and who held a basic certificate were convened for an interview, in accordance with the Scheme of Service.

The Appellants confirmed to the Tribunal that they do not possess a basic certificate but believe that their applications should have been considered on the basis

of merit, namely that they had all the necessary permits and an exemplary disciplinary record. Although the Scheme of Service provides that applicants should hold a basic certificate, the advertisement also contained a note which provides that, should no applicant hold a basic certificate, applications from those not holding a basic certificate, but who show proof of being literate, will be considered.

Ruling

It is clear from the above that, according to the Scheme of Service, a basic certificate is a prerequisite for the post. The note referred to above would only apply if there were not enough candidates possessing a basic certificate. In the present case, the 17 applicants out of 24 who were shortlisted held a basic certificate. They were interviewed and four of them were appointed.

We therefore find no merit in the appeal. The appeal is, therefore dismissed.