

If the PSC reverses its decision to appoint an officer, any appeal by those not appointed concerning that decision is “*caduc*”.

The Appellant, a CCOR, filed an Appeal on ... before the Tribunal on the following grounds:

1. that the Respondent had disregarded that he had good academic qualifications, which he listed.
2. that the Respondent had overlooked the important aspect of selection although an interview exercise took place.
3. the decision of Respondent was “*unjust, unfair and unreasonable.*”

The Co Respondent left the matter in the hands of the Tribunal

The Respondent filed its Statement of Defence in which it maintained that:

- “(i) the post of Deputy CHR was filled following a selection exercise as per the Scheme of Service for the post, the criteria of selection, performance at the interview and the provision of regulation 14(1)(a), (b) and (c) of the Public Service Commission Regulations, taking into account qualification, experience, merit and suitability for the post before seniority;*
- (ii) Respondent has acted in all fairness and in conformity with the powers vested upon it by section 89 of the Constitution and the provisions of the Public Service Commission Regulations;*

(iii) Respondent further avers that all candidates convened for interview were fully qualified for the post of Deputy CHR and all relevant information regarding qualifications and experience as disclosed by them in their application forms were given due consideration by the selection panel.”

It further averred that the appeal had no merit and moved that it be set aside.

The case was heard on the merits on At the very start of the hearing, Counsel for the Appellant proposed a formula that would help all parties as he learnt that the Co-Respondent was on the point of retiring, which was confirmed verbally by the Respondent. He started suggesting that, if Appellant was on the merit list, we could resolve the matter.

But the Representative of the Respondent could not give any such undertaking. The case was then heard and Determination was reserved.

In the meantime the Tribunal was awaiting a written confirmation from Respondent regarding the date on which Co-Respondent was due to retire. On ..., Respondent replied that it had obtained from the Department a reply that Co-Respondent was due to retire on...

However, the Tribunal then learnt that the Co-Respondent had been informed that the PSC had decided that:

“(i) your temporary appointment as Deputy CHR be terminated forthwith; and

(ii) you be reverted to your substantive post of ... in accordance with paragraph 3 of the offer of appointment made to you on...”.

The Tribunal then wrote to Appellant to ask him to take a stand and he replied that ‘the correspondence addressed to the Co-Respondent has no bearing on my case’ and he left the matter in the hands of the Tribunal.

In order to ensure that Appellant did understand the full implications of the reversion of Co-Respondent, the case was called proforma on.... Appellant was requested to attend. Unfortunately, he was absent on that date and his counsel, who attended, had no more instructions from him.

The Tribunal then wrote to the Respondent to seek its official stand before giving a Ruling. The State Attorney appearing for Respondent replied that on..., the post of Deputy Chief Registrar in the department had already been advertised by PSC Circular Note No. ... of ... and that the closing date for submission of applications was Monday

The State Attorney also averred that *“in view of the fact that the Co-Respondent’s temporary appointment (which was being challenged by Appellant) has now been terminated, this Office’s stand is to the effect that this development has a bearing on the present appeal and that the appeal should be set aside as it no longer has any ‘raison d’être’ or any live issue”*.

The Tribunal, after having considered all the developments in this case concludes that indeed the appeal is now *“caduc”* as it was based on the decision of Respondent to appoint Co-Respondent, which decision has now been reversed by Respondent itself.

The Appeal is therefore set aside.