

- **An Appellant who has not been appointed despite her continued assignment of duty to a post, has no *locus standi* to lodge an appeal before the Public Bodies Appeal Tribunal if there has been no appointment.**
- **The Tribunal does not have jurisdiction to deal with assignment of duty.**

The Appellant has lodged an appeal before the Tribunal concerning the decision of the Public Service Commission (PSC) not to approve the continued assignment of the duties of Director General HLSE of the Appellant and not to appoint her as Director General HLSE.

She provided detailed Grounds of Appeal (GOA) and annexed the letter dated ... sent to her by the Senior Chief Executive (SCE) of the Ministry of ... to the effect that her assignment of duties was stopped forthwith.

The Respondent filed a Preliminary Objection in law as follows:

- “a) the Tribunal has no jurisdiction to hear and determine an appeal pertaining to –*
- (i) the decision of the Public Service Commission relating to the assignment of duties with respect to the post of Director-General, HLSE*
 - (ii) The decision of the Public Service Commission in connection with the selection exercise whereby no appointment has been made for the post of Director-General, HLSE on the ground that the selection panel considered that no candidates, including Applicant, met the requirements of the existing scheme of service for that post; and*
- b) Applicant has therefore no locus standi to make the present appeal”.*

Section 3(1) of the Public Bodies Appeal Tribunal Act (PBAT) provides that *“Subject to subsections (2) and (3), 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”.

Clearly the appeal does not concern an appointment exercise as no one has been appointed yet.

It does not either concern a disciplinary action taken against the officer.

The second leg of the appeal concerns assignment of duty which does not fall within the jurisdiction of the Tribunal.

The Tribunal has no choice than to dismiss the appeal under section 6(4)(a) of the PBAT Act which provides that the Tribunal may upon a consideration of the grounds set out in an appeal and the objections made against the appeal –

“(a) dismiss the appeal, where it appears to the Tribunal that it is trivial, frivolous or vexatious;...”

The Appellant will be able to come before the Tribunal again if the Public Service Commission makes an appointment to any relevant post and she feels aggrieved.