

An appeal based only on the ground of seniority has no chance to succeed where there is a selection exercise as seniority is not an overriding criterion and comes after qualification, experience and merit.

The Appellant is contesting the appointment of the Co-Respondents to the post of CHOR by the Respondent on the ground that he had “longer length of service than those appointed”. He solemnly affirmed to the correctness of his Grounds of Appeal (GOA). He was represented by a Trade Union Representative.

The Respondent in its Statement of Defence (SOD) had raised before the Tribunal points of law to the effect that:

- (i) Seniority or length of service is not a criterion for appointment. Respondent referred to Local Government Service Commission (LGSC) Regulation 13(1)(b) which stipulates that in the exercise of its powers in connection with appointment, Respondent shall take into account qualifications, experience and merit before seniority;
- (ii) Appellant has relied only on one ground of appeal and has not been concise and precise in his GOA as is required under Section 6(1)(a) of the Public Bodies Appeal Tribunal (PBAT) Act 2008.

The Trade Union Representative for the Appellant, on his part, argued that the longer years of service has given the Appellant experience. He worked as CHOR and this required care and experience as it involved serious hazards. He had to be careful and the years in service gave him that kind of experience.

The Tribunal after listening to parties, rules as follows:

- (i) It is not correct for the Respondent to state that seniority or years of service is not a criterion. This is an erroneous interpretation of Regulation 13 of the LGSC Regulations. Regulation 13 is clear that seniority is a criterion but it is considered after qualification, experience and merit.

- (ii) It cannot be said that the Appellant is not concise and precise. He is adamant on his only ground of appeal. He cannot be more concise.
- (iii) However, the Appellant is relying only on one ground of appeal while in a selection exercise, there are many criteria that are taken into consideration. The Appellant has not invoked other grounds which makes his appeal deficient. He cannot bring in a criterion such as experience when this was not in his GOA. The PBAT Act at its Section 6(5) is clear that *“The Tribunal shall not entertain any ground of appeal not raised in the grounds of appeal”*. The Appellant is outside the 21 days’ statutory delay to raise a new ground.

Since the Appellant has relied on only one ground of appeal, which is not a determining factor compared to other criteria as per LGSC Regulation 13, the appeal has no chance to succeed.

The appeal is set aside.