

The Tribunal does not have the power under the Public Bodies Appeal Tribunal Act 2008 to order the respondent to correct a Scheme of Service.

The Appellant is appealing against the decision of the Respondent not to call him for interview while filling the post of Chief ROK. In this appointment exercise the two Co-Respondents were appointed but the Appellant is not contesting their appointment.

The Respondent had intimated to the Tribunal that it intended to raise a preliminary point in law to the effect that the Tribunal had no jurisdiction to hear the present appeal inasmuch as Appellant was not called for an interview. This point has not been fixed for argument as the Tribunal has found that the appeal is not tenable as explained below.

According to the Scheme of Service for the post of Chief ROK the post is filled;

“By selection from among officers in the grade of Senior ROK reckoning at least two years service in the grade and possessing:

(A) Diploma in ... or... or ... awarded by the University of Mauritius

Or

The National Diploma in ... awarded by Mauritius Institute of Training and Development (MITD)

Or

The National Diploma in ... awarded by Mauritius Institute of Training and Development (MITD)

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Or

The National Diploma ... awarded by Mauritius Institute of Training and Development (MITD)

Or

Equivalent qualifications acceptable to the Local Government Service Commission”.

The Scheme of Service contains a Note which reads as follows:

“Senior ROK in post as at ... will also be considered for appointment to the post of Chief ROK”.

The Appellant concedes that he does not have the Diplomas mentioned in the Scheme of Service for the post. His contention is that the Note in the Scheme of Service has caused him prejudice and deprived him of being called for interview. He points out that other Senior ROK appointed before ... were called for interview. The Appellant himself was appointed Senior ROK after....

The prayer of the Appellant is that the Tribunal should order the Respondent to correct this anomaly caused by the Note to enable him to be eligible. This prayer is beyond the jurisdiction of the Tribunal. A Scheme of Service is sacrosanct. It is an agreement between the employer and the respective trade unions and can only be amended by the parties through an established process. The Tribunal cannot interfere with this and can only adjudicate on an appeal regarding an appointment based on the prescribed scheme of service for the post, which in this case was prescribed on....

The Tribunal, acting under section 8(4)(a) of the Public Bodies Appeal Tribunal Act 2008, confirms the decision of the Public Body and sets aside the appeal.