

The Public Bodies Appeal Tribunal has no jurisdiction to hear appeal with regards to seniority ranking which occurred years back.

The Appellant is challenging the decision of the Respondent to appoint the Co-Respondents to the post of SVPI in the DV in a second appeal dated 12th April 2022. It is not disputed that the appointments were made by promotion from the grade of IPV. It is to be noted that the Appellant made a first appeal on 07th March 2022 against five Co-Respondents who were appointed in the same promotional exercise.

The Grounds of Appeal (GOA) were identical and were as follows: -

- “1. *I am the senior most of the Co-Respondents.*
2. *I am better qualified than the Co-Respondents.*
3. *I have better experience than the Co-Respondents.*
4. *The decision of the Respondent is not fair and reasonable.*
5. *In all circumstances of the case, I ought to have been promoted to the post of SVPI by ranking in seniority”. (SIC)*

The Appellant in her Statement of Case dated 27th April 2022 included the two Co-Respondents.

The Respondent, in its Statement of Defence (SOD) dated 19th September 2022, added the two Co-Respondents in the present matter which includes a *plea in limine* which read as follows:

Respondent moves that the present appeal be dismissed in as much as:

(a) There is no live issue as on 18 May 2022, Appellant was offered promotion as SVPI and she has accepted the promotion and assumed duty in the same grade on 20th May 2022;

(b) The Tribunal does not have jurisdiction to hear the present matter which is a disguised application to challenge the change in ranking and seniority at the time of appointment as IPV which is time barred; and

(c) This promotion exercise is in line with the requirements laid down in the Scheme of Service as the Co-Respondents met the requirements of the Scheme of Service and were senior most in the post of IPV at the time of appointment.

The matter was heard on arguments and a ruling delivered on 09th March 2023. In the said ruling, the Tribunal concluded that the appointments of the Co-Respondents to the post of SVPI were made by promotion from the grade of IPV. It was also admitted by all parties that they were senior in the rank of IPV as the Appellant was appointed IPV after the Co-Respondents as far back as June 2013. The effective date of appointments of the Co Respondents was not challenged at that particular time. Appellant was appointed as SVPI on 18th May 2022 and she assumed duty on 20th May 2022. Evidence was adduced before the Tribunal that she accepted the appointment under protest. In light of the above, the Tribunal concluded that there was no live issue and that it could not determine on the seniority ranking which occurred in June 2013. The *plea in limine* was well taken and the appeal was set aside.

The Tribunal, acting under its powers as per section 4(a) of the Public Bodies Appeal Tribunal Act 2008, concluded that there was no necessity to hear another argument on the same subject matter with the same Grounds of Appeal and that the present appeal is trivial. Consequently, the appeal against the appointments of the two Co-Respondents is set aside accordingly.