

The Tribunal has no jurisdiction to hear appeal involving appointment from the public advertisement.

RULING

The Appellant is challenging the decision of the Respondent to appoint the Co-Respondents to the post of HASS in the Ministry.

His grounds of appeal were as follows:

1. *Hierarchy and seniority have not been followed (WG with less than five months of service and without experience as HAS have been selected whereas he has eight years of service in the Ministry and experience as TA and has not been selected.*
2. *He has experience and work as attendant at Long Mountain Hospital and as AS at SSRN Hospital.*
3. *He has a clean Record.*
4. *He has not received an equal and fair interview.*

It is not disputed that the Appellant joined the Ministry as WG on 19 May 2014 and was transferred to the permanent and pensionable establishment on 30 May 2015.

A copy of the scheme of service, effective as from 30 January 1984, was also attached to the Statement of Defence of the Respondent which provides the following under heading "Qualifications":

- A. Certificate of Primary Education (formerly Primary School Leaving Certificate) or an alternative qualification acceptable to the Public Service Commission.
- B. A sound physique, clean habits and good manners.

Note:-

Consideration will also be given to employees of this Ministry who have worked satisfactorily for a period of at least three years although they do not possess the prescribed academic qualification.

It is, therefore, clear that the Scheme of Service provides for open competition by way of public advertisement even though employees of the Ministry may apply and could be considered in the absence of having a Certificate of Primary Education and having three years' service in the Ministry. It is not restricted to serving general workers of the Ministry only.

However, in this particular selection exercise, the Respondent invited applications to the post of TA from qualified employees of the Ministry only instead by public advertisement.

The Tribunal raised this issue with all parties and invited them for their views. The Respondent called a representative of the Ministry to clarify the issue. The latter informed the Tribunal that it is a practice at the Ministry to advertise for the post internally and by public advertisement alternately so that the employees of the Ministry have the opportunity to be promoted in one selection exercise and new recruits can join the service in the next ensuing appointment exercise.

The matter was fixed for argument as to whether the Tribunal has the jurisdiction to hear the matter. In the meantime, there was a new advertisement inviting applications for the same post issued by public advertisement.

On the day of Argument, Counsel for Respondent as well as representatives of the Co-Respondents Nos 20, 64, 74, 77, 78, 87 and 99 agreed that the Tribunal has no jurisdiction to hear the matter. The Appellant, on the other hand, was called to give his stand. He did not precisely state his views but simply declared that it was unjust and unfair that he has not been selected as TA after so many years of service as WG.

The Tribunal, having analysed the scheme of service and the statement made by the representative of the Ministry as well as the stand of the Respondent and Co-Respondents, it concludes that it has no jurisdiction in the present matter. The appeal is, therefore, set aside.