

Introduction

1. On 12 January 2017, the Applicant filed this application contesting the non-selection of [the] Applicant for a [Senior Human Resources Policies Officer] P-5 post

rejected the sexual advances by the ICSC Chairman is receivable as part of the present case. The parties duly did so.

Consideration

9. As a preliminary matter, the Tribunal notes that it is competent to raise a receivability issue on its own initiative as confirmed by the Appeals Tribunal in, for instance, *Tintukasiri et al.* 2015-UNAT-526, para. 32,

his post. Both legal issues, namely the selected candidate not being eligible, and Applicant's name being suspiciously without cause excluded from the short list, were presented to the MEU. The application is, therefore, receivable.

11.

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evaluation request is that claim made, either explicitly or implicitly. Consequently, the management evaluation outcome makes no reference to any such claim. To ensure that the purpose of the management evaluation process is met, namely exhaustion of administrative remedies, an applicant has an obligation to clearly idBT/8/i2 /P 4(ment)2o26i477.

15. The Tribunal notes that, as relevant to the present case, staff rule 11.2 regarding management evaluation describes the requirements of such an evaluation, and the exceptions thereto, as follows:

(a) A staff member wishing to formally contest an administrative decision alleging non-compliance with his or her contract of employment or terms of appointment, including all pertinent regulations and rules pursuant to staff regulation 11.1 (a), shall, as a first step, submit to the Secretary-General in writing a request for a management evaluation of the administrative decision.

(b) A staff member wishing to formally contest an administrative decision taken pursuant to advice obtained from technical bodies, as determined by the Secretary-General, or of a decision taken at Headquarters in New York to impose a disciplinary or non-disciplinary measure pursuant to staff rule 10.2 following the completion of a disciplinary process is not required to request a management evaluation.

16. As the alleged decision not to select the Applicant because of her rejection of

(a) an administrative decision taken pursuant to advice obtained from technical bodies pursuant to ST/AI/2018/7 (technical bodies) or (b) of a decision taken at Headquarters in New York to impose a disciplinary or non-disciplinary measure pursuant to staff rule 10.2 following the completion of a disciplinary process, it therefore follows that the Applicant was under the obligation to request management evaluation before presenting her case to the Dispute Tribunal.

17. In the Applicant submission of 21 February 2019, her Counsel admits that the issue had never undergone management evaluation. A perusal of the case file confirms this because:

a. -
selection, she brought issue with: (i
(ii) the content of the vacancy announcement; (iii) that the assessment panel
was not impartial as all but one member were subordinates of the Chairman of

ICSC; and (iv) gender discrimination. No mention was made of the Applicant allegedly having rejected any sexual advances of the ICSC Chairman.

b. In the management evaluation letter dated 5 December 2016, the-then Under-Secretary-General for Management addressed the following three issues: (i) the selection procedure; (ii) the propriety of the vacancy

brackets, the party contesting the disputed fact shall set out the reason(s);

- iii. Insofar as any of the parties wishes to refer to a witness testimony provided at the hearings on 15 March and 23 October 2017 before Judge Greceanu, each party is to confirm that the undersigned Judge may rely on the transcript of the hearing or state if the relevant witness(es) instead witness(es)