



**United Nations Dispute Tribunal**

Case No.: UNDT/GVA/2009/8  
Judgment No.: UNDT/2009/048  
Date: 16 October 2009  
English  
Original: French

**Before:** Jean-François Cousin  
**Registry:** Geneva  
**Registrar:** Víctor Rodríguez

TSONEVA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for applicant:**  
Self-represented

**Counsel for respondent:**  
Shelly Pitterman, DHRM/UNHCR

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Notice: The format of this judgment has been modified for publication purposes in accordance

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**Application**

1. In her appeal to the Joint Appeals Board, registered on 25 July 2008, the applicant requested it to recommend that:

- The decision of 29 February 2008 by the High Commissioner for Refugees not to promote her to the P-4 level during the 2007 promotion session should be rescinded;
- She should be awarded compensation for the moral and material harm caused by the unlawful decision to deny her a promotion.

2. In its resolution 63/253, the General Assembly decided that all cases

transferred to the United Nations Dispute Tribunal.

**Applicant's submissions**

The letter of 15 July 2008 and the letter of 16 June 2008 attached

thereto from the Administrative Law Unit of the United Nations Office of Human Resources Management cannot be taken into account owing to their late submission to the Joint Appeals Board.

4. The contested decisions are contrary to Article 101 of the Charter of the United Nations, the United Nations Staff Rules and the rules of the

recommendation for promotion to the P-4 level made in 2007 failed to mention that she had held those two posts. No rules were cited in justification of the decision to ignore her assignments outside UNHCR.

**Respondent's observations**

UNHCR admits that the promotion should be reinstated as

unfounded. Assuming that the reply of the Office of Human Resources Management of the United Nations Secretariat to the Joint Appeals Board was late, the respondent reiterates the content of that response. According

the Administration to evaluate the performance of the staff member. The

applicant cannot claim that her service prior to her recruitment by UNHCR should be taken into account for the calculation of points allocated to rotation history, since that service allowed her to enter UNHCR at the P-3 level.

17. With regard to the applicant's further claims, reference should be

made to the Secretary-General's reply to her request for an administrative review. The reply contained the following points: consultation of the Joint

introduce any changes to the evaluation or eligibility criteria specified in the APPB Guidelines. The UNHCR management nonetheless discussed the methodology with the Staff Council, and adaptations were made based on its comments. The system of calculating points used by the Board reflected the Staff Council recommendations. The Methodological Approach, by

the highest standards of efficiency, competence and integrity." Staff

regulation 4.2 provides: "The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity of securing the highest standards of efficiency, competence and integrity". The 2003 APPB Guidelines applicable to UNHCR staff provide that, once the minimum seniority requirements for eligibility for promotion are met, account will be taken of manager's recommendations, performance appraisal reports and seniority in grade. It follows from the foregoing provisions that the applicant is entitled to claim that seniority should be given top priority as

when a decision is taken about which staff to promote.

22. In order to draw up the list of staff members to be promoted to the P-4 level during the 2007 promotion session, UNHCR asked the Board to make recommendations by applying a Methodological Approach. The approach evaluates eligible staff members on the basis of four principal criteria: performance appraisal reports, managers' recommendations, seniority in grade, including recognition for underfilling (i.e. performing functions at a higher level) and rotation history. Each criterion is allocated

confidence in him. At least one month before the functions of the Board expired, the Staff Council and the Administration, on the basis of the combined provisions of paragraphs 11, 16 and 19 of the APPB rules of procedure, compiled a list containing equal numbers of staff representatives and Administration representatives, the members of the Board were then appointed by the High Council.

first meeting elected two Co-Chairs, one representing the staff and the other the Administration.

25. Therefore, once a staff member had been proposed by the Staff Council

the fact-sheet and taken into consideration by the Board, even though the promotion session for 2007 was not held until 27 January 2008.

30. In the recourse she submitted on 25 March 2008 to the Board, a recourse which on 24 June 2008 resulted in another recommendation not to recommend promotion, the applicant specified the errors in the fact sheet

It is apparent from the case file and in particular from a comparison of the

sheet of 23 October 2008 as corrected by the Administration following the applicant's recourse that: first, the period from July 1995 to September 2000 when the applicant was serving in Haiti and Rwanda, was classified

The application is rejected.

Judge Jean-François Cousin

Dated this 16th day of October 2009

Entered in the Register this 16th day of October 2009

Víctor Rodríguez, Registrar, UNDT, Geneva

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