

Introduction

1. On 16 June 2005 the applicant filed an appeal with the New York Joint Appeals Board (JAB) against the decision by the Executive Secretary of the Economic and Social Commission for Western Asia (ESCWA) not to select him for the D-1 post of Chief, Information and Communication Technology Division, to which another candidate was appointed in January 2005.

2. Having been pending before JAB when that body was dissolved on 1 July 2009, the case was, pursuant to the transitional measures set out in General Assembly resolution 63/253, transferred to the United Nations Dispute Tribunal (UNDT).

Facts

3. The applicant entered the service of the Organization with ESCWA in Beirut, Lebanon, on 2 January 1998 at the P-5 level as the Chief, Transport Section, on a two-year fixed-term contract that was subsequently regularly renewed. He was still in that post when the appeal was filed.

4. In an e-mail dated 12 January 2004 the Secretary of the Commission complained to the Executive Secretary of ESCWA about the way the applicant had spoken to her during a telephone conversation.

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e-staffing system, with a deadline for applications of 9 July 2004.

Regarding education, the vacancy announcement called for:

“Advanced university degree (Master’s degree or equivalent) preferably in ... computer engineering, computer science, communications with the necessary technological and analytical knowledge and skills in ICT or knowledge management or any related field. A first level university degree, with a relevant combination of academic qualifications and experience in ICT or related area may be accepted in lieu of the advanced university degree.”

Regarding work experience, it called for, inter alia:

“... a thorough knowledge of the ICT and/or knowledge management in the regional and in the international context of strategic policy and planning. Progressively responsible relevant postgraduate experience is required, in the application of principles and concepts of ICT and/or knowledge management in the development in various contexts, or analytical and research techniques in support of an organizational, national or regional programme.”

7. In May 2004 the applicant and one of his colleagues travelled to Saudi Arabia to represent ESCWA at a conference. A dispute arose in public between the two staff members and the applicant’s colleague subsequently filed a complaint against him. On 8 June 2004 an investigation panel concluded, without interviewing either of the two staff members, that both of them had been at fault.

8. By interoffice memorandum dated 18 November 2004 addressed to the Executive Secretary the colleague who had complained about the applicant after the above-mentioned incident again filed a comp

27. On 1 March 2010 the Tribunal ordered the respondent to produce all the documents pertaining to the selection process for the post of Chief (D-1), Information and Communication Technology Division, ESCWA.

28.

Parties' contentions

32. The applicant's principal contentions are:

- a. In the selection process for the postT/GVg

transportation systems did not meet the evaluation criteria, which were that candidates should preferably have a degree in computer engineering, computer science or communication and professional experience in those fields;

- b. The contention that the selected candidate was due to retire less than a year after being appointed is irrelevant because regulation 4.2 of the then Staff Regulations required that the paramount consideration in the appointment and promotion of staff be to secure the highest standards of efficiency, competence and integrity;
- c. The applicant provides no proof that the decision not to select him for the post stemmed from prejudice or some other unlawful motive such as discrimination. The fact that he was not selected for other D-1 posts for which he applied is not proof of discrimination any more than was the Executive Secretary's decision to extend his contract for one year instead of two.

Judgment

34. The applicant's request to the Secretary-General for administrative review under rule 111.2 (a) of the then Staff Rules relates only to the fact that another candidate than himself was selected for the post of Chief (D-1), Information and Communication Technology Division, in ESCWA.

35. In the appeal he subsequently filed with JAB the applicant seeks to contest, in addition to the above-mentioned decision, a number of administrative decisions concerning which there were no prior requests to the Secretary-General for review. They are, inter alia: (i) decisions not to select him for three other D-1 posts in 2002 and 2003; (ii) multiple instances of discrimination and harassment of which he was allegedly a victim from 2001 onwards; (iii) adverse comments made by the Executive Secretary in his performance appraisal system (PAS) report for the period 2004/2005, a report of which he asks for his filing of an appeal with JAB to be considered

provides, *inter alia*, that: “Interviews and/or other appropriate evaluation mechanisms ... are required for appointment and promotion at the 30- and 60-day marks of the candidates identified by the programme manager as meeting all or most of the requirements of the post.” Having found that only one candidate met most of the requirements, the Executive Secretary had no obligation to interview the other three.

41. The applicant claims that the Executive Secretary had promised the post to the candidate ultimately selected long before it was advertised. He provides no evidence to support this allegation, which must therefore be dismissed.

42. He also contends that he was better qualified, more competent and more senior than the selected candidate, and that the latter was, moreover, due to retire less than a year after his appointment.

43. While the applicant contends that the selected candidate should not have been appointed because he was nearing the compulsory retirement age, he does not quote any documents in support of that contention. Seniority cannot be an exclusive criterion for selection. The fact that the candidate selected for promotion had less seniority at the P-5 level than the applicant is not enough to prove that he was less qualified overall than the applicant.

44. Furthermore, the applicant had available to him from May 2005 part, and from February 2006 an unredacted copy of the whole of the evaluation of the selected candidate, who was, in addition, a colleague who had worked in the same division as him for several years. He therefore had access to essential information concerning the selected candidate’s qualifications and experience and the opportunity to make a comparative analysis of them and the qualifications he claims to have had himself. Despite that, he provides no details in support of his allegations that the candidate selected for promotion was less qualified than he.

45. Lastly, the applicant contends that the decision not to select him for the post of Chief (D-1), Information and Communication Technology Division, was merely one more example and proof of the discrimination and harassment to which he claims to have been subjected by the Executive

Secretary of ESCWA. Most of the examples of harassment and discrimination that he mentions are appealable administrative decisions, but the applicant did not appeal them. In the absence of evidence, the contested decisions cannot in themselves be considered signs of harassment. At most