
Case No.: UNDT/GVA/2010/050
(UNAT 1683)

Introduction

1. By her application dated 12 January 2009, filed with the former UN Administrative Tribunal, the Applicant must be deemed to be seeking the

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competencies, such as team working, personal and professional behaviour, protection and leadership. In his memorandum, he stated that, in taking his decision, he had taken into consideration the Applicant's two last PARs, the comments of the Deputy Representative (Protection) in the memorandum of 13 February 2007 and the information contained in the Applicant's fact sheet. He attached the Applicant PARs and the memorandum from the Deputy Representative in support of his refusal to confirm the Applicant to her post.

12. On 16 February 2007, PAPS began the process of reinstating the Applicant in her previous post at Yerevan, Armenia. The Applicant's probationary period was nonetheless extended to 28 February 2007 to allow for the completion of administrative formalities prior to her departure.

13. On 21 February 2007, the Applicant made a request to the Secretary-General for administrative review of the decision of the UNHCR Representative not to recommend her confirmation to the Professional category post of Protection Officer.

14. On 2 March 2007, the Applicant filed a recourse with the Appointments, Postings and Promotions Board ("APPB") against the refusal to confirm her to the post of Protection Officer at the end of her probationary period. The APPB

negative recommendation with regard to her confirmation to the post of Protection Officer, and also the decision of the High Commissioner to follow the recommendation of the APPB to reject her appeal against the refusal of confirmation.

18. The JAB submitted its report to the Secretary-General on 11 June 2008. It found, on the one hand, that the Applicant's right to due process had been respected and that the contested decisions had not been tainted by prejudice or

her behaviour towards other staff members. Moreover, by letter of 19 September 2006, the UNHCR Representative in Iran informed the Applicant of his reservations about her performance and professional

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decision, and she produces, in support of her contention, a copy of an email she sent him on 16 February 2007 stating that only in a telephone call on that very day had he informed her that he was refusing to recommend her. That statement cannot seriously be rebutted by the production of the memorandum of 13 February 2007, paragraph 6 of which contains a statement that its author, the UNHCR Representative in Iran, personally informed h

promotion to the P-3 level, and, as such, governed by Article 10, paragraph 5, of the Tribunal's Statute, which provides that, where the Judge orders rescission of a decision concerning promotion, he shall also set an amount of compensation that the respondent may elect to pay as an alternative to the rescission of the contested administrative decision. In the present case, if UNHCR chooses that option, it must pay the Applicant the sum of CHF15,000.

39. The Applicant has sought compensation for the material damage resulting from the loss of the additional salary she would have received if she had been confirmed to the P-3 level. However, as the Tribunal ruled in its Judgment

refusal of the UNHCR Representative to recommend her. But, in the Tribunal's estimation, given the content of that decision refusing to recommend her, even if the Applicant had been able to state her case to the Representative, her chances of making him change his mind, and thus her chances of being confirmed to her post,

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