

Introduction

1. The Applicant, a staff member in the Procurement Division (“PD”), Office of Central Support Service (“OCSS”), Department of Management (“DM”) of the United Nations in New York, contests the decision conveyed to him on 7 February 2011 not to select him for the post of Procurement Officer (“the Post”) in the Procurement Division t Division work considered in evaluating whether he met the work experien

- a. The Vacancy Announcement (“VA”);
- b. The list of pre-screened candidates for the vacancy;
- c. The list of pre-approved roster candidates;
- d. The procurement division’s comments and annexes as sent to the MEU.

6. In its response to Order No. 288 (NY/2011), on 2 December 2011, the Respondent submitted a number of documents, including the personal history profiles (“PHPs”) of all the other prescreened candidates applying for the Post. The PHPs were provided on an “*ex parte* and confidential” basis to protect the personal information included in them.

7. On 8 December 2011, the Applicant submitted a lengthy reply in which he objected to the confidentiality of the PHPs. In addition, he advanced a number of arguments apparently in support of his case and to suggest a timetable for two further filings of documents and arguments by each party.

8. The Tribunal notes that although Order No. 288 (NY/2011) did not direct the Respondent to file the PHPs of all the prescreened candidates for the Post, the Respondent submitted these on his own initiative. In any event, the Respondent’s request for confidentiality of the PHPs is reasonable as all these documents contain personal and private information concerning third persons who are not directly involved in the present proceedings. This case is not about the personal records and characteristics of all these applicants for the Post. It concerns the lawfulness of the selection process as it was applied to the Applicant. None of the information in the PHPs is relevant to the present case and there is no reason why the personal details of third parties should be subject to publication. The Respondent’s request for confidentiality is therefore granted.

9. The Applicant’s response of 8 December 2011 included a lengthy analysis of the alleged way in which candidates are included on the roster and purported evidence

about the manner in which other vacancies were dealt with. This further argumentation was uncalled for and irrelevant to the issues in the present case. It is not necessary for the Tribunal to consider t

The hiring manager's consideration of the Applicant's work experience

21.

arbitrary. In the present case, during the management evaluation process, the hiring manager provided the reasons why the Applicant was not short-listed. As mentioned above, the hiring manager took into account that, at the time of the job application, the Applicant had almost 12 years of work experience with the United Nations, mainly in the area of finance. Of this work experience, only almost three years had been in the field of procurement, and the Applicant therefore did not meet the work experience requirement for the post, namely “a minimum of seven years of progressively responsible experience in managing procurement and contracting activities and delivering complex contracts”.

27. The Tribunal observes that one of the characteristics of the United Nations selection process is the use of objective criteria (such as the use of a requirement of seven years of experience in managing procurement and contracting activities and delivering complex contracts). The advantage of this objective and quantifiable approach is that it reduces the risk of decision-makers reaching subjective and possibly unfair comparisons of candidates’ suitability for vacant posts, including of such matters as levels of experience.

28. In evaluating the Applicant’s suitability for this post, the Respondent was bound to consider whether he met the requirements of the Post as stated in the VA, including the requirements regarding work experience. In this regard, there was a mandatory requirement of a “minimum of seven years of progressively responsible experience in managing procurement and contracting activities and delivering complex contracts”. The Applicant himself acknowledged in the pre-screening question in respect of this issue in his application that he did not have the necessary “7 years of experience in high-volume procurement operations”. It was not a question of whether his prior work experience had been properly assessed, but the application of a single objectively defined question.

29. The Applicant clearly does not accept that his work experience is insufficient to meet the post requirement. He wishes the Tribunal to assess his previous experience and

rule on whether that is sufficient to meet the criteria required for this post. The Tribunal has neither the power nor the ability to make such an assessment and substitute its assessment for that of the Respondent. As stated in the United Nations Appeals Tribunal's judgment in *Rolland* 2011-UNAT-122, the role of the Tribunal is limited to determine whether an applicant received full and fair consideration of her/his candidature and not to enter into a substantive analysis of her/his application (see para. 4 of the Judgment):

We hold that the selection process conducted by an interview panel can be rescinded under rare circumstances. Generally speaking, when candidates have received fair consideration, discrimination and bias are absent, proper procedures have been followed, and all relevant material has been taken into consideration, the selection shall be upheld.

Discrimination against the Applicant

30. The Appeals Tribunal stated in *Azzouni* 2010-UNAT-081 that “[w]hen a staff member alleges discrimination, he or she bears the burden of proving on a preponderance of evidence that discrimination occurred” (see para. 35). The Tribunal notes that the Applicant has not submitted any evidence to support his claim that the Respondent was biased towards him and nothing in the case record suggests otherwise. His contention therefore fails.

Conclusion

31. The Tribunal finds that the Applicant was fully and fairly considered for the post. The present application has no merit and is dismissed in its entirety.

Observation

32. The Tribunal observes that staff members' right of access to the formal system of internal justice should not be abused by the bringing of frivolous cases. There was no factual or legal basis for the Applicant's claims of procedural error or discrimination for the reasons given in this judgment. It is irresponsible to bring what is a serious

allegation of bias without any supporting evidence. The Applicant also filed unnecessary, irrelevant and lengthy submissions, which were of no assistance or relevancy to his case. The Tribunal strongly discourages such frivolous litigation and reminds the Applicant that the Tribunal's resources as well as those of the Respondent must not be misused.

(Signed)

Judge Coral Shaw

Dated this 10th day of February 2012

Entered in the Register on this 10th day of February 2012

(Signed)

Hafida Lahiouel, Registrar, New York