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1. By application filed on 13 June 2015, the Applicant contests the decision not to select her for the P-2 post of Associate Programme Officer at the United Nations Framework Convention on Climate Change (UNFCCC).

2. The application was served on the Respondent who filed his reply on 16 July 2015.

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3. The Applicant joined the UNFCCC on 1 September 2010, as Programme Administrative Assistant (G-5) with the Information Technology Services ("ITS"), under a fixed-term appointment ("FTA"), through 30 November 2012.

4. On 8 October 2012, the Applicant was informed that her temporary assignment to the post of Associate Programme Management Officer (P-2), in the Interim Secretariat of the Green Climate Fund ("ISGCF"), UNFCCC, had been accepted for an initial period of six months. The Applicant accepted the temporary assignment on 9 October 2012 and received a special post allowance ("SPA") at the P-2 level effective 1 November 2012. She remained on an FTA with the UNFCCC, and initially retained a lien on the G-5 position with the UNFCCC, which she released on 22 August 2013.

5. The ISGCF became independent and moved to the Republic of Korea on 1 January 2014. On 10 January 2014, the Applicant was offered a temporary assignment with the Sustainable Development Mechanism ("SDM"), UNFCCC, as Administrative Assistant (G-5), effective 1 January 2014. That assignment was successively extended on three occasions until 31 December 2014.

6. On 4 July 2014, SDM internally advertised the post of Associate Programme Officer (P-2) within the SDM Finance Team, UNFCCC. The Applicant and three other internal candidates applied to the post. Three candidates, including the Applicant, were found eligible by the Human Resources Unit ("HRU"), UNFCCC and were forwarded to the direct supervisor of the

position, Ms. Camay Ho, Programme Management Officer (P-3), SDM. The latter determined that all three candidates be invited to take the written test. The test had been prepared by Ms. Ho and approved by HRU.

7. Each test was color-coded, without the names, for each candidate, and sent to Ms. Ho for assessment/scoring. She returned the results of the written test/assessment to HRU, UNFCCC, on 11 September 2014. Thereafter, HRU, UNFCCC, notified Ms. Ho of the names of the candidates associated with each color-coded test. On the basis of the results of the written test, the three candidates—including the Applicant—were invited for a competency-based interview, since they all passed the 50% threshold for the test. The Applicant's score in the test was 55%, whereas that of the two other candidates was 67% and 97%.

8. The Applicant and the two other candidates who had taken the test

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members and made the selection recommendation to the Head of Programme;

c. The Respondent did not provide evidence that it was Ms. Ho who

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e. The Panel acted within its mandate under sec. 9.1 of the SoP when it made the assessment that the Applicant “did not demonstrate expert knowledge in the area of finance”;

f. The Applicant’s allegations that the decision was based on extraneous considerations are without merit, and she did not meet the burden of proof in this respect; and

g. There is no basis for the Applicant’s request for compensation, and the application should be rejected.

Conclusion

20. The Applicant contests the decision not to select her for the P-2 post of

23. The Tribunal has to address the question of whether the recruitment process for the P-2 position at SDM/Finance was tainted by any unlawfulness, and if the Applicant should be granted 24 months of net salary as compensation.

App *pro* *on*

24. The Respondent mistakenly argues that the provisions of AG/2014/4 (UNFCCC Staff selection system) are applicable to the present case. However, these rules only came into force on 31 October 2014, and sec. VII of that instruction provides under 7.1 that:

Candidates for vacancies that have been advertised before the entry into force of these administrative guidelines shall be considered under the system in place at the time the position was advertised.

25. Since the vacancy announcement for the post under review was issued on 4 July 2014, the Applicant is correct in stating that the applicable instruction is AG/2011/3 of 1 November 2011.

26. AG/2011/3 (UNFCCC Staff selection system) relevantly provides:

2.1.6 *WPKv BK anKL opKop H^{BH}vpop KP K opopK B p K p K FpK opop*

hoc group referred to in paragraph 4.1 above. The advice of the review body shall be given due consideration.

...

8.1 This administrative guideline and its annex shall enter into force on 1 November 2011.

27. In accordance with sec. 8.5.2 of the SoP, "[t]he hiring manager is responsible for designing questions for technical assessment".

L a s s u s

28. To enable the Tribunal to decide on the lawfulness of the recruitment a

32. The Tribunal is of the view that the SDM organigram, as well as the terms of the vacancy announcement, support the argument that it was Ms. Taylor and not Ms. Ho who was the hiring manager.

33. Further, the SoP provides under sec. 7.2 that:

As a general rule, the hiring manager is one of the panel members

47. Further, the Tribunal notes that the SoP only requires that the panel members passed the competency based interview course, which they did. Hence, the Tribunal finds the alleged lack by any of the Panel members of any of the competencies linked to the contested post not only unproven, but also irrelevant for the regularity of the selection exercise.

48. The Applicant also argues that the composition of the panel shows bias against her because there were personal issues between her and both Ms. Ho and 60.y.iH0)yik)h(wMsn

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57. Full judicial review does not imply replacing the Administration and its discretion but rather to ascertain whether the rules of fairness, transparency and accountability were followed during the recruitment procedure.

58. In the present case, the Applicant did not show that the procedure was biased against her, or that her right to full and fair consideration was violated through any procedural flaws.

59. On the contrary, the Tribunal is satisfied that the panel was composed of experienced experts, that technical skills were evaluated through an anonymous test and that the interview bore in mind a relevant set of skills that it found the Applicant didn't possess.

60. With respect to the demand for compensation, the Tribunal has not identified any flaws or bias in the procedure to justify such compensation. Moreover, even if the procedure was biased (which is certainly not the case) the Applicant did not provide any relevant evidence of harm in this case as requested by art. 10.5.(b) of its Statute. As a consequence, the Applicant is not entitled to any compensation.

Reason

61. In view of the foregoing, the Tribunal DECIDES:

The application is dismissed.

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Judge Teresa Bravo

Dated this 6th day of December 2016

Entered in the Register on this 6th day of December 2016

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René M. Vargas M., Registrar, Geneva