



UNITED NATIONS DISPUTE T

represented

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Introduction

1. The Applicant is a Budget and Finance Assistant at the GS level, working with the United Nations Interim Force in Lebanon ("UNIFIL") based in Naqoura.
2. By an application filed on 26 August 2019, the Applicant is contesting a decision not to select her for the position of Assistant Administrative Officer, National Professional Officer ("NPO"), in the Language Support Unit, UNIFIL.²
3. The Respondent filed a reply on 25 September 2019, which it is argued that the contested decision was lawful.
4. The Tribunal held a case management discussion on 24 September 2020 and on 19 October 2020, a hearing was held on the merits. The parties filed their closing briefs on 28 October 2020.

Facts

5. Job Opening No. 101569 for the post of Assistant Administrative Officer, NOA was advertised in Inspira running from 30 August 2018 until 28 September 2018. The Applicant applied for the post.
6. Thirty

candidate could be selected for the position in consideration of the needs of the unit/section, the overall work experience, background information and performance evaluation.¹⁶

11. Subsequent to the discussion with CSDM, the hiring manager retracted the memorandum recommending the Applicant. On 23 January 2019, he filed another memorandum with HRS, in which he expressed his preference for the applicant for selection.

element of the job description was ignored, and critical elements were given more emphasis. Second, that there was bias and pressure in the selection process. Third, the selection process took too long, since it exceeded 100 days from the date of the interview.

16. Regarding the first argument, the Applicant submits that the hiring manager ignored the scores given by the CBI panel members. The Applicant stresses that she received the highest score for the competencies; specifically, exceeds the

shall be informed of such placement within 14 days after the decision is made by the hiring manager or occupational group manager. In her case, the hiring manager recommended selection on 23 January 2019 and she was informed of the decision on 25 February 2019, which exceeds the 14 days limit, and is equal to 33 days.

20. The Applicant thus requests the Tribunal by way of remedies:

- a. Rescind the contested decision and award her compensation for loss of career potential, professional dislocation, loss of earnings and pension benefits resulting from the improper selection. The calculation of the compensation be based on the difference between the NOA salary with corresponding steps that would have accrued and her present GS step 9 salary effective the date of the selection process, which is equal to USD1,144.44 per month, effective 1 March 2019;
- b.

broad discretion to choose either of two candidates recommended for selection. Applicant had no right to be selected for the position. Rather, the MRP endorsed the Applicant for selection, the Applicant's only right was to be rostered in accordance with section 7.4 of the UNIFIL guidelines for the selection of locally recruited staff members.

23. On the argument that the hiring manager changed his initial recommendation for selection due to pressure from NSEC, the Respondent explains that the NSEC was not consulted regarding the selection. The hiring manager consulted with his FRO the CSDM, before finalizing his recommendation. Moreover, the recommendation to the head of office or department does not constitute an administrative decision subject to appeal. The selection decision was made by the OM.

24. As to the third Applicant's argument that the selection process exceeded 100 days and was thus delayed in bad faith to benefit from her absence at work while on maternity leave; the Respondent denies that the recruitment process was delayed as the set target for the Organization for the specific job opening was 130 working days from the time of the closing of the job opening to the selection decision. The recruitment process of the position in question, was completed within 104 working days. Hence, there was no delay.

25. In view of the foregoing, the Respondent requests the Tribunal to dismiss the application.

Considerations

Standard of review

26. The paramount consideration in the employment of United Nations staffs the
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ST/AI/2010/3³¹, but by the UNFIL Guidelines for the Selection of Locally Recruited Staff Members (“Guidelines”) issued by the UN. ³² As stated in section 1.2 of the Guidelines, they embrace the basic principles expressed by ST/AI/2010/3 and ST/SGB/2011/7 (Central review bodies)

30. The Applicant’s contention is that the applicable procedures were breached because the score assigned to the candidates upon

including 16 months of acting as Officer-in-Charge of the Unit is not unreasonable. The Applicant does not allege that her rival was not competent; rather, her complaint is based on the contention that the ultimate selection decision by law should have followed the result of the assessment by the panel. As explained above, there is no support for this contention.

Was there bias or any improper considerations?

36. On the score of bias and improper consideration, the Tribunal agrees with the Respondent that the decision on selection is taken by the HoM, and not by the hiring manager. The Applicant stated expressly that she did not attribute ulterior motive to the HoM. The Tribunal takes it that what is being put forth as the factor invalidating the HoM's selection decision is the alleged ulterior motive on the part of persons responsible for making the recommendation to the HoM.

37. The Applicant's averment of ulterior motive is based on the fact that she had

