

1. On 30 October 2019, the Applicant, a staff member of the United Nations Office at Vienna (“UNOV”), filed an application for suspension of action (“SOA”) with the Tribunal requesting the suspension of the decision not to select him for the position of “Documents Management Assistant (Correspondence and Distribution)” at the G-6 level in the Reproduction and Distribution Unit (“RDU”), Planning Coordination and Meetings Section (“PCMS”), Conference Management Service (“CMS”), Division for Management (“DM”), UNOV (“the position”).
2. On 31 October 2019, the application was transmitted to the Respondent, who was instructed by the undersigned Judge, to file his reply by 4 November 2019, and to refrain from taking any further decision or action in relation to the impugned decision for the duration of the SOA procedure.
3. The Applicant joined UNOV on 1 January 1994, on a fixed-term appointment as Correspondence Clerk at the G-3 level in the CMS following his transfer from the United Nations Industrial Development Organization (“UNIDO”). He is currently serving as Documents Assistant at the G-5 level in the CMS, holding a permanent appointment.
4. On 7 March 2019, job opening (“JO”) 113076 was advertised for the position. The deadline for applications stipulated in the JO was 5 April 2019. The Applicant applied for the position on 18 March 2019.
5. Following a preliminary evaluation by the Hiring Manager, that is, the Chief, CMS, DM, a total of one hundred and two candidates were released as eligible for further assessment. Eleven candidates, including the Applicant, were invited to take the written assessment which took place in May 2019. However, this test was subsequently cancelled, and a new test was scheduled in July 2019 for all short-listed candidates, including the Applicant.

c. The selected candidate has less experience than the Applicant. In fact, she was trained by

Case No. UNDT/GVA/2019/064

Order No. 88 (GVA/2019)

assess whether the applicable regulations and rules have been applied and whether they were applied in a fair, transparent, and non-discriminatory manner. The Tribunals' role is not to substitute its decision for that of the Administration (see *Kinyanjui* 2019-UNAT-932).

18. The Appeals Tribunal has also held that the burden of proving improper motives, such as abuse of authority, discrimination,

25. At this stage, the Tribunal finds no evidence of bias, improper motives or of any procedural flaws. Consequently, the Tribunal concludes that the contested decision is not *prima facie* unlawful.

26. Having reached this conclusion, the Tribunal will not analyse the other requirements of urgency and irreparable damage since these requirements are cumulative.

27. In view of the foregoing, the application for suspension of action is rejected.

(Signed)

Judge Teresa Bravo

Dated this 7th day of November 2019

Entered in the Register on this 7th day of November 2019

(Signed)

René M. Vargas M., Registrar, Geneva