



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/006
Order No.: 61 (NY/2020)
Date: 3 April 2020
Original: English

Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Nerea Suero Fontecha

RUSSO-GOT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Jameel Baasit, UNOPS

Introduction

the decision-maker reached the impugned decision and not the merits of the decision-
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7. Specifically regarding selection and promotion decisions, in light of the
Cf o kpkutcvkppø'dtqcf "fkscretion in such matters, the Appeals Tribunal has held that
these types of decisions are governed by the so-cmgf "ör tkpek ng"qh'tgi wctk{ ö0Vj ku"
o gcpu"vj cv"kh"vj g"Tur qpf gpv"ku"cdrg"öq"gxgp"o kpkø cm{ "uj qy "vj cv"]cp"cr r rdecprøu_"
candidature yand

applicant in question, as a matter of fact, received such consideration. Such written evidence can, for instance, include documentation for the established grading methodology, the applicable passing score, the actual grades given, any assessment report(s) and memoranda, and any other relevant material.

The scope of the case

11. The Tribunal has the power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review. In defining the issues of a case, the Appeals Tribunal in *Trkdvpcn' hvtvj gt" j grf " vj cv' õvj g" F kur wg" Vtkdwpcn' o c{ " eqpukf gt" vj g" crr rnkcvkp"cu" c"y j qrgõ' Ugg" Fasanella* 2017-UNAT-765, para. 20, as affirmed in *Cardwell* 2018-UNAT-876, para. 23.

12. The Applicant submits in the application that, õ [t]he Administration is not compliant with *Timothy* 2018-UNAT-847 and UN jurisprudence to let [him] participate on a preferred or non-competitive basis in the mandatory order established by Staff Rule 9.6(e), without having to go through a competitive selection processõ.

13. The Tribunal notes that staff rule 9.6(e) solely concerns the situation where a staff member is separated from service because her/his appointment is terminated and not where, as in the present case, it is not renewed. In line herewith, the Tribunal refers to the Appeals Tribunal in *Nouinou* 2019-UNAT-902, paras. 31 and 32.

14. The issues of the present case may therefore be defined as:

- a. Were the decisions not to select the Applicant for the respective positions as (i) Business Development Specialist and (ii) Process Design Advisor proper in light of the Tribunal's limited judicial review?
- b. If not, what remedies are the Applicant entitled to?

20. The Applicant submits that with

24. By **4:00 p.m. on Monday, 27 April 2020**, the parties are to file a jointly-signed statement providing, under separate headings, the following information:

a. A consolidated list of the agreed facts. In chronological order, this list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning. If any documentary and/or oral evidence is relied upon to support an agreed fact, clear reference is to be made to the appropriate annex;

b. A consolidated list of the disputed facts. In chronological order, the list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning. If any documentary and/or oral evidence is relied upon to support a disputed fact, clear reference is to be made to the appropriate annex. At the end of the disputed paragraph in square brackets, the party contesting the disputed fact shall set out the reason(s);

25. By **4:00 p.m. on Monday, 11 May 2020**, the Applicant is to file his closing statement, which is to be five pages maximum, using Times New Roman, font 12 and 1.5 line spacing. The closing statement is solely to be based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage

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28. Unless otherwise ordered, on receipt of the last-mentioned statement or at the expiration of the provided time limit, the Tribunal will adjudicate on the matter and deliver Judgment based on the papers filed on record.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 3rd day of April 2020