



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/027
Order No.: 64 (NY/2020)
Date: 6 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

1. On 6 May 2019, the Applicant, a former Project Manager, at the United Nations Office of Project Services (“UNOPS”) filed this application in which he challenges “the decision of the Administration not to select him for the position of ERP/SAP Project Manager - VA/2018/B5011/16266”.
2. On the same date (6 May 2019), the Registry acknowledged receipt of the application and instructed the Respondent to file his reply within the mandatory 30-day time limit set out in art. 10 of the Dispute Tribunal’s Rules of Procedure. The case was not assigned to a specified Judge.
3. On 6 June 2019, the Respondent duly filed his reply in which he claims that the application is without merit.
4. On 1 April 2020, the case was assigned to the undersigned Judge.

Consideration

The Applicant filed the application before receiving the management evaluation response

5. In the reply, the Respondent indicates that the Applicant filed the application before he received the management evaluation response, but essentially states that he is, nevertheless, ready to proceed with the case on the merits since the Applicant would otherwise just file another application with the Tribunal:

The Respondent wishes to note that the Application was filed at a time when the outcome of the management evaluation was still not due. In particular, the Application was filed when mediation was still ongoing.

Regulations 1.2(c) and 4.1, the Secretary-General has broad discretion in matters of staff selection. The jurisprudence of the Appeals Tribunal has clarified that, in reviewing such decisions, it is the role of the Tribunals to 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 their decision for that of the Administration" (see para. 13).

14. In *Verma*, the Appeals Tribunal further held that, "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 Dispute Tribunal shall uphold the selection/promotion" (see para. 14).

15. To minimally show that an applicant's candidature was given a full and fair consideration, the Respondent must therefore typically, at minimum, be able to produce a contemporaneous written record to demonstrate that the candidature of the applicant in question, as a matter of fact, received such consideration.

The scope of the case

16. The Appeals Tribunal has held that "the Dispute Tribunal has the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review". When defining the issues of a case,

18. The Tribunal notes that staff rule 9.6(e) solely concern

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- b. The management evaluation response;
- c. All relevant information and documentation as to how the decision for not shortlisting the Applicant was made (names of other candidates can be redacted from the documents);

28. By **4:00 p.m. on Tuesday, 28 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 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

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