

---

UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/064

Judgment No.: UNDT/2022/086

Date: 21 September 2022

Original: English

---

Case No.: UNDT/NY/2021/064

Judgment No.: UNDT/2022/086

analysis of all candidates with the proposed shortlist with the four other Executive Secretaries.

8. ES/ECA, as coordinator and hiring manager, prepared a shortlist of six candidates which was agreed to by the other four executive secretaries. The Panel agreed to proceed directly to interviews without conducting a written/technical assessment. The six candidates, including the Applicant,



20. In *Verma* 2018-UNAT-829, 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 uph

*Did the Applicant receive full and fair consideration?*

21. In the present case, the Applicant claims that his application did not receive fair and adequate consideration. The Applicant states that he met both the required and desirable criteria for the D-2 level position and, in fact had held the post either in an acting capacity or as a regular assignment for 13 years. The Applicant states that he had superior credentials to the selected candidate. The Applicant further claims that the selection process was tainted with bias and procedural irregularity.

22. The Respondent replies that the Applicant was afforded full and fair consideration, noting that the Applicant was one of two candidates recommended to the Secretary-General for selection. The Respondent submits that the Secretary-General lawfully selected the female candidate from an underrepresented state, noting that the Applicant is Egyptian, a country listed as overrepresented while the selected candidate is from Equatorial Guinea, an underrepresented state. The Applicant has not challenged this submission.

23. Having reviewed the record, the Tribunal notes that application for the D-2 position, his candidacy was evaluated by a hiring panel, which consisted of five Executive Secretaries at the Under-Secretary-Generals level. The hiring panel determined that the Applicant met criteria for the position and shortlisted him for an interview. The Applicant was one of two candidates who passed the interview process and was recommended for the position by the hiring managers to the SRG. The SRG reviewed the hiring panel s recommendations and endorsed both candidates to the Secretary-General for a final determination. It follows that the

Applicant as a recommended candidate to go forward to the next level in the selection process.

24. The final decision was made by the Secretary-General who decided to select a female candidate from an underrepresented state for the D-2 level position. The Applicant does not contest this fact. The Tribunal notes that the applicable legal framework allows the consideration of geographical and gender diversity in the recruitment process. As noted above, art. 101.3 of the United Nations Charter and staff regulation 4.2 provides that,

The administrative instruction on gender parity , ST/AI/1999/9 (Special Measures for the Achievement of Gender Equality), stresses



the D-2 level position. of candidates from the African Region, even if this is maybe true, this alleged bias would have benefitted the Applicant as a candidate from the African Region. The Tribunal notes that ultimately the Applicant was recommended for the D-2 level position and that the non-selection decision was taken by the Secretary-General. The record provides no indication of bias in the selection exercise.

32. The Applicant complains about the delay in announcing and filling the D-2 level vacancy. In this respect, the Tribunal notes that ST/AI/2010/3 (Staff Selection System) does not mandate period of time for filling a vacant position. The Manual for the Hiring Manager on the Staff Selection System (Inspira) suggests a benchmark of 120 days in filling a vacant position as good practice. However, this is a benchmark as and not an imperative deadline which would render a selection decision unlawful. In any case, the Tribunal notes that there were justifiable reasons for



It follows that it is within the discretion of the Hiring Manager to determine the kind of assessment necessary in a selection exercise. Therefore, the absence of an exam does not constitute a procedural irregularity.

34. Having reviewed the evidence, the Tribunal is satisfied that the Administration