



Counsel for Appellant: Katya Melliush

Counsel or Respondent: Phyllis Hwang

JUDGE KAMALJIT SINGH GAREWAL , Presiding.

Synopsis

1. The Appellant, Zahra Hussein (Hussein), was interviewed for the post of Procurement Assistant and was the only candidate recommended for the position. Later the recruitment process was cancelled and the post was re-advertised. Hussein again applied for the post. She challenged the first recruitment while being a candidate for the second recruitment, and wanted the first recruitment to be kept in abeyance. Her application was dismissed by UNDT. The UNDT judgment is affirmed.

Facts and Procedure

2. Hussein is a staff member of the United Nations Office at Nairobi (UNON) in the Procurement Travel and Shipping Section (PTSS). On 28 April 2009, she filed an appeal before the Nairobi Joint Appeals Board (JAB) contesting the decision to cancel the recruitment process that was underway in respect of vacancy announcement 08-PRO-UNON-417625-R-Nairobi, Procurement Assistant, G-7. This cancellation took place after Hussein had been interviewed for the post and rated first by the Programme Case Officer (PCO), who had requested that the Head of Department, Alexander Barabanov, forward the recommended list to the Central Review Panel (CRP).

3. The contested administrative decision cancelling the recruitment process simultaneously discontinued Hussein's Special Post Allowance (SPA) and re-launched the vacancy announcement.

4. Hussein's appeal was transferred, on 1 July 2009, from the JAB to the United Nations Dispute Tribunal (UNDT). In a reply filed on 4 August 2009, the Secretary-General stated that Hussein's SPA had been reinstated, leaving only the issue of the cancellation and re-launch of the vacancy announcement in contention. Hussein had applied for the re-advertised position.

5. Hussein filed an application with the UNDT, pursuant to Article 19 of the Rules of Procedure of the UNDT, requesting that the UNDT stay the proceedings in her case pending the outcome of the on-going recruitment process for the re-advertised post.

6. In its ruling of 17 September 2009 [UNDT/2009/020], the UNDT denied Hussein's application and struck out her case in its entirety. It found that

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[i]n accepting to become part of the cancellation of the vacancy announcement and a re-launch of the same process over which she had brought a case to the Tribunal by presenting herself as a candidate, the Applicant acquiesces in the process and effectively extinguishes her claims. She cannot approbate and

Conclusions

11. We have examined the case from all angles and find that the judgment of the

Jdgment

13. This Court affirms the UNDT judgment, and dismisses the appeal.