



Case No.: UNDT/GVA/2010/038
(UNAT 1644)
Judgment No.: UNDT/2011/014
Date: 14 January 2011
English

Introduction

1. By application filed on 3 November 2008 with the former UN Administrative Tribunal, the Applicant, a P-3 staff member, contested the decision refusing to appoint him to the P-4 post of Deputy Chief, Security and Safety Section of the United Nations Office at Geneva (“UNOG”).

2. In additional written submissions filed in the Registry of the former UN Administrative Tribunal on 29 July 2009, the Applicant, having taken note of the Secretary-General’s decision of 9 December 2008 granting him partial satisfaction following his request for review of the above decision and awarding him 11 months’ net base salary as compensation for the damage suffered, reduced his claims and requested the Tribunal to order the Secretary-General:

- a. To redeploy him to a vacant post at level P-4, in exchange for the P-3 post he currently occupies, and pay him the salary he would have received if he had been promoted to level P-4 in 2007;
- b. If that is not possible, to give him absolute priority for any level

Facts

4. The Applicant entered the service of the United Nations Economic Commission for Latin America and the Caribbean in Santiago, Chile on 10 July 1994 as Chief Security Officer in the Division of Administration and Security, at level P-3. On 1 September 1998, he was transferred to a level P-3 post at UNOG as Deputy Chief (Second Officer) of the Security and Safety Section.

5. On 17 November 2006, he submitted an application for the P-4 post of

the Applicant was unlawful, and recommended that the Secretary-General appoint the Applicant to a P-4 post, or, if he refused such appointment, pay him compensation equal to 11 months' net base salary and, in addition, give him absolute priority for any P-4 post in the security field.

10. On 3 November 2008, the Applicant submitted his application to the former Administrative Tribunal.

11. On 9 December 2008, the Deputy Secretary-General informed the Applicant that the Secretary-General took the view that the contested decision was unlawful and had therefore decided to pay him the compensation proposed by the JAB. He refused, on the other hand, to appoint him to a P-4 post or give him absolute priority in promotion to any P-4 post in the security field.

12. On 11 June 2009, having requested, and been granted, several extensions of time by the Administrative Tribunal, the Respondent filed his answer to the application. The Applicant filed his rejoinder on 24 July 2009.

13. As the case could not be decided by the UN Administrative Tribunal before its abolition on 31 December 2009, it was transferred to the United Nations Dispute Tribunal on 1 January 2010.

14. By letter dated 5 January 2011, the Tribunal informed the parties that it considered that no hearing was necessary in the case and granted them one week in which to give their views on that question. On 10 January 2011, the Respondent stated that he agreed with the Tribunal's position that no hearing was necessary. The Applicant also replied on the same day, making no objections.

Parties' contentions

15. The Applicant's contentions are:

- a. The Applicant acknowledges that, in deciding to pay him an indemnity equal to 11 months' net base salary, the Secretary-General has compensated him for his economic damage. However, the irregularities committed have seriously violated his fundamental rights, as well as

19. First, with regard to the Applicant's claim that the Tribunal order the

inadmissible and, in any event, the Tribunal does not consider that there is any need in the present case to avail itself of the above-cited provision.

Decision

24. In view of the foregoing, the Tribunal DECIDES:

The application is dismissed.

(Signed)

Judge Jean-François Cousin

Dated this 14th day of January 2011

Entered in the Register on this 14th day of January 2011 month year

(Signed)

Víctor Rodríguez, Registrar, Geneva