



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2014/002

Judgment No.: UNDT/2016/088

Date: 22 June 2016

Original: English

Before: Judge Vinod Boolell

Registry: Nairobi

Registrar: Abena Kwakye Berko

NGOKENG

v.

S1.2 0.928 TD304.5n5 239.28 492w46n5 26g 0.9981 0 0 1 157./ Q q 0 1 1

Introduction

1. The Applicant is a Reviewer in the Language Services Section (LSS) at the

FACTS

10. On 16 February 2012, job opening No. -ADM-ICTR-21952R-ARUSHA (O) was published on Inspira for the position of Chief of LSS at the ICTR. It required candidates to have the following competencies:

- (1) an Advanced University Degree (Master's or equivalent) in relevant modern languages or law and a ~~diploma~~ ^{diploma} or an Interpretation Degree, Certificate from a recognized Translation or Interpretation Training School;
- (2) a minimum of twelve years of experience in translation and revision in the languages services of an international organization, a national administrator or a large scale private organization, with at least five years within the United Nations;
- (3) sound experience in the planning, coordination and supervision of translation services; and
- (4) demonstrated ability to interpret. The ~~Vacancy~~ ^{Announcement} also added that training skills and experience would be an asset.

11. On 16 March 2012, the Applicant applied for the position. The hiring manager, Mr

21. On 30 December 2013, MEU requested the Applicant to complete and sign a release form, “agreeing to forego [his] rights to further pursue the case (e.g. at the UNDT) in exchange for accepting the settlement.” Subsequently, MEU clarified that the settlement would constitute the Secretary General’s response to the Applicant’s request for management evaluation and that no separate

30.

staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, c

Respondent

38. The Application has no merit. The Applicant received full and fair consideration for the position but failed to demonstrate that he possessed the required competencies. He therefore has no standing to challenge the selection of another candidate. The Applicant has not proffered any evidence to show that the decision to not select him for the position was flawed.

39. Following the interviews, the selected candidate was the only candidate who demonstrated that he possessed the requisite competencies for the position. He scored over 60% in his evaluation. On 5 July 2013, the Registrar of the ICTR selected and appointed this candidate as Chief SS. The Applicant failed to demonstrate that he met the competencies required for the position. He scored 48.6%, which was well below the threshold for recommendation.

40. The Applicant failed to demonstrate to the interview panel that he met the competencies for the position; he could not have been recommended and

member was given full and fair consideration, the burden of proof shifts to the candidate who must be able to show through clear and convincing evidence that he or she was denied a fair chance of appointment.

43. The record in this case shows that the Applicant was fully and fairly considered for the position. He was found not suitable for functions as he failed to demonstrate that he possessed the required competencies for the position.

44. The Applicant has no standing to challenge the selection of another candidate. The Applicant as a staff member only has standing to challenge a decision affecting his own terms of appointment or contract of employment.

45. Under section 9.4 of the administrative instruction on staff selection a candidate recommended for selection should be placed on a roster automatically. However, the Applicant was not recommended for selection because of how he performed at the interview. He therefore had no entitlement to be placed on a roster. The fact that he was not placed on the roster is not evidence of collusion it is the consequence of an application of the appropriate rules and an acknowledgement that the Applicant failed to demonstrate to the interview panel that he possessed the requisite competencies of the position.

46. The Applicant has suffered no economic loss. He was not selected for the position because of his performance at interview. The decision to select another candidate for for

the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.

...Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.

62. In *Ibekwe*⁶, the Appeals Tribunal held that a staff member who is challenging his or her selection cannot base the claim on general discrimination but must demonstrate specific discrimination when he or she was denied appointment to a specific post for which he or she had competed.

63. On the evidence before the Tribunal cannot conclude that the Applicant was subjected to any discrimination that the selection exercise was tainted

Conclusion

64.