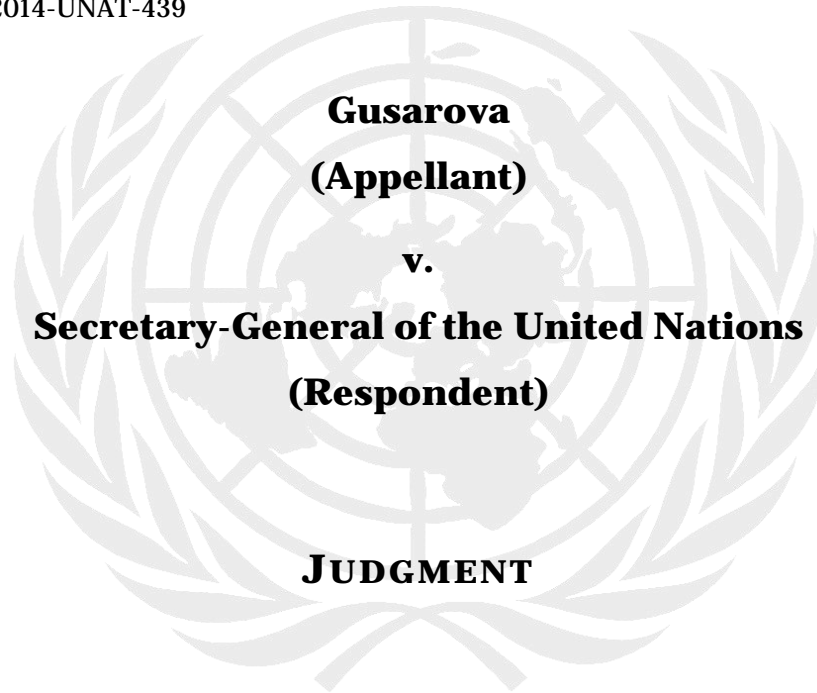




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2014-UNAT-439



**Gusarova
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

Before: Judge Mary Faherty, Presiding
Judge Inés Weinberg de Roca
Judge Sophia Adinyira

Case No.: 2013-503

Date: 27 June 2014

Registrar: Weicheng Lin

Counsel for Ms. Gusarova: Self-represented

Counsel for Secretary-General: Simon Thomas

JUDGE MARY FAHERTY, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Ms. Alexandra Gusarova against Judgment No. UNDT/2013/072, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 25 April 2013 in the case of *Gusarova v. Secretary-General of the United Nations*. Ms. Gusarova appealed on 25 June 2013, and the Secretary-General answered and cross-appealed on 26 August 2013.

Facts and Procedure

2. The UNDT made the following findings of fact, which are not contested by the parties:¹

... The Applicant entered the service of the United Nations Framework Convention on Climate Change (“UNFCCC”) in 2009, as a Human Resources Officer, at the P-3 level, on the basis of a fixed-term appointment, a post that she held at the time of her application to this Tribunal.

... On 25 February 2011, the Applicant applied for CCPO positions at the P-5 level with the United Nations Peacekeeping Operations, under generic vacancy announcement No. 11-HRE-PMSS-425171-R-MULTIPLE D/S. The Applicant was subsequently invited to participate in a written assessment and having successfully passed it, she was invited for a telephone interview conducted on 7 July 2011.

... Since her Personal History Profile (“PHP”) did not contain information on her status and personal grade, the Interview Panel asked the Applicant at the beginning of the interview the level at which she was currently serving at UNFCCC. After the Applicant informed the Panel that she was holding a P-3 position, the Panel considered her ineligible to apply for a P-5 post at the Secretariat and decided to end the Applicant’s interview.

... By email of 7 July 2011, the Applicant sought clarification from the Administration with respect to the basis on which she was considered ineligible for the P-5 positions, and requested that the decision be reconsidered.

... On 13 July 2011, the Operational Group Manager, Recruitment, Outreach and Career Development Section (“OCDS”), Field Personnel Division, Department of Field Support (“FPD/DFS”), United Nations, responded to the Applicant, confirming that as a staff member currently serving at the P-3 level, she was not eligible to apply for positions more than one level above her grade. She stressed that “with the harmonization of the conditions of service and the new staff selection system, the

¹ The following text is taken from Judgment No. UNDT/2013/072, paras. 2-11.

organizations that fall within the larger United Nations family [...] are all subject to the same rules and regulations governing the recruitment process”.

... By email dated 26 July 2011, the Applicant requested further clarification from the Occupational Group Manager, Recruitment, OCDS, FPD/DFS.

... By email of 12 September 2011, the Applicant requested clarification from the Management Evaluation Unit (“MEU”) of the decision not to consider her eligible for the P-5 position. She subsequently submitted to MEU the management evaluation form on 16 September 2011.

... By email of 4 November 2011, MEU sent to the Applicant its response dated 2 November 2011, assuming that the Applicant had submitted her “request for management evaluation on 12 September 2011” and upholding the decision to deem her ineligible for the above generic vacancy announcement.

... After the selection process for the generic vacancy announcement was completed in September 2011, a roster was endorsed and in the following months several of the rostered candidates were selected for posts at the P-5 level.

... The Applicant filed her application on 2 February 2012 and it was served to the Respondent for a reply. On 2 March 2012, the Respondent requested an extension of time for filing a reply, which was granted, as both parties were making efforts to find an informal resolution to the claim. After informal efforts failed, the Respondent submitted his reply on 19 March 2012.

3. In its Judgment No. UNDT/2013/072, the Dispute Tribunal determined that Ms. Gusarova’s application was receivable.

4. The Dispute Tribunal found that the Administration’s conclusion that Ms. Gusarova was ineligible to apply for a post two grades higher than her personal grade (on the basis that she was deemed to be an internal candidate under Section 6.1 of administrative instruction ST/AI/2010/3 entitled “Staff Selection System” which precluded staff from applying for positions more than one level above their own grade) amounted to discrimination against Ms. Gusarova vis-à-vis male applicants in the same contractual situation.

5. It also found that “[i]n view of the fact that the third sentence of sec 1(o) [of ST/AI/2010/3] was clearly meant to provide female candidates of the funds and programmes with a competitive advantage, the interpretation and application of sec. 6.1 to the Applicant leads to an unjustified discrimination and is in clear contradiction to the intent and purpose of sec 1(o) of ST/AI/2010/3.”² As the contested decision which found

² *Ibid.*, para. 32.

Ms. Gusarova ineligible to apply for the P-5 generic vacancy was discriminatory and illegal it was accordingly rescinded by the Dispute Tribunal.

6. The UNDT found that by deeming her ineligible, after she had successfully passed the written test, and by denying her the possibility to pass the interview, Ms. Gusarova had lost a chance of being selected for inclusion on the roster and ultimately to be selected for a P-5 position. The Dispute Tribunal held that she also lost a chance to considerably improve her status within the Organization at the material time. This warranted a compensatory award of USD 3,000 for the material damage sustained by Ms. Gusarova. The Dispute Tribunal, however, concluded that Ms. Gusarova had not established any entitlement to moral damages, finding that she had not substantiated her claim in this regard and had not provided evidence in support of it.

Ms. Gusarova's Appeal

7. Ms. Gusarova appeals only the quantum of compensation awarded by the Dispute Tribunal for material damage and its failure to award her moral damages.

8. She submits that the UNDT erred on a question of law since it did not properly address both material and moral damages.

9. In respect of material damages, Ms. Gusarova contends that the UNDT failed to properly assess material damages and failed to analyse appropriate precedents. She submits that she has the right to understand how the Dispute Tribunal arrived at an assessment of USD 3,000 material damages. Taking into consideration the gravity of the violation, which amounted to gender discrimination and, in her submission, discrimination vis-à-vis female applicants who worked in separately administered funds like the World Health Organization (WHO), her claim for compensation by way of material damages merits an amount of two years' net base salary. She argues that the Dispute Tribunal should not have equated her situation with that of Mr. Marsh in this Tribunal's Judgment No. 2012-UNAT-205, as the Dispute Tribunal did not analyse the selection process, number of candidates admitted to interview, number of candidates who passed the interview and did not compare their profiles with hers. Ms. Gusarova contends that the fact that she was selected and took on a P-5 level position with the WHO within a year from the events in issue in this appeal made her chances, in retrospect, even higher. Although acknowledging that selection for the roster

would not have meant actual appointment, Ms. Gusarova submits that it is clear that selection for the roster would have improved her chances for other positions.

10. Ms. Gusarova further submits that the Dispute Tribunal did not correctly analyse the gravity of the violations. While the UNDT noted that the interview panel was not authorised to find her ineligible, it failed to consider its doing so as an aggravating factor. Ms. Gusarova contends that the violation in her case was so grave that even before her appeal of the Dispute Tribunal decision, the Secretary-General had recognised it as such, by giving an across-the-board exception from Section 6.1 of ST/AI/2010/3 to female candidates applying for positions two grades higher than their own.

11. Her case was aggravated by abuse of authority, gender discrimination and discrimination vis-à-vis other female candidates justifying compensation for material damage at two years' net base salary.

12. On the issue of moral damages, Ms. Gusarova submits that the Dispute Tribunal erred in law in denying her such damages. She claims entitlement to moral damages on the basis of the alleged rude behaviour of the interview panel members who, it is argued, treated her in a peremptory fashion upon finding out that she was at the P-3 level. Ms. Gusarova further claims that her communications to the Administration, and especially a fellow Human Resources Officer, were never properly replied to and that the replies, such as they were, were humiliating as they implied that she did not possess the qualifications and experience for a P-5 level post even though she had passed the written test. Ms. Gusarova contends that she was humiliated, outraged and insulted by the Administration's actions and that she was ignored, not only as an applicant for the generic P-5 vacancy but also as a fellow human resources colleague.

13. Ms. Gusarova contends that she developed cognitive dissonance as a result of her interpretation of ST/AI/2010/3 being questioned, yet the Administration had not provided any compelling justification for its interpretation. This had led Ms. Gusarova to question her professional ability to properly interpret administrative instructions, thus causing her deep emotional distress. Thus, the actions and attitudes of the Administration merit compensation by way of moral damages in an amount of USD 50,000.

Alleged procedural unfairness on the part of the Dispute Tribunal

14. In the course of her appeal submission, Ms. Gusarova states that during the oral hearing before the UNDT, her Counsel requested that in case negotiations on mutual settlement were not successful she be given an opportunity to submit additional evidence and information of moral and material damages. Ms. Gusarova claims to have been denied this opportunity. She contends that in accordance with the advice provided by her Counsel, she did not include a description of moral damages in her submission/application to the Dispute Tribunal, having in that application reserved the right to submit further evidence following the Dispute Tribunal's decision on the merits. Ms. Gusarova contends that this approach was adopted because in several cases the Dispute Tribunal's decision on the merits was followed by a separate judgment on compensation. Here, however, the Dispute Tribunal did not order production of additional submissions on compensation but rather decided to consider the merits and compensation at the same time. It was not surprising therefore that the UNDT did not find a basis for compensation for moral damages as, for the reasons stated, such heads of damage were not included in the initial submission to the Dispute Tribunal. Ms. Gusarova submits that she was denied her right to a fair and proper hearing.

The Secretary General's Answer

15. Ms. Gusarova has not established any basis to warrant an increase in the material damages awarded by the Dispute Tribunal and that the UNDT correctly determined that no moral damages were warranted.

16. The Secretary-General has cross-appealed the award of USD 3,000 compensation for material damages (see below). Should the Appeals Tribunal reject that appeal, the Secretary-General nonetheless submits that, even absent the impugned decision, Ms. Gusarova would only have been interviewed for a place on the roster and therefore the Dispute Tribunal's assessment of material damages was reasonable.

17. The Secretary-General contends that Ms. Gusarova has failed to show how the Appeals Tribunal could upset the Dispute Tribunal's finding since the Appeals Tribunal affords the UNDT a margin of discretion being the body "in the best position to decide on the

level of compensation given its appreciation of the case” and given that the Appeals Tribunal will “respect the opinion of the trial judge”.³

18. It is further submitted that the duration over which Ms. Gusarova was affected was very limited as she herself has acknowledged that she obtained a P-5 position with WHO within a year from the events at issue in this appeal.

19. The Secretary-General reiterates that the chance Ms. Gusarova lost, i.e., the material harm for which she was compensated, was the chance to be placed on the roster until she was able to get another P-5 position, and the chance of receiving increased remuneration had she obtained a P-5 position earlier than when she did.

20. Ms. Gusarova herself concedes that “selection to the roster does not mean actual appointment”.

21. Even if Ms. Gusarova had been placed on the roster after interview, she would still have had to undergo a selection process, albeit a truncated one, prior to getting a P-5 post. Such a process would have taken time and it is possible that she would have suffered no loss at all (in circumstances where she obtained a P-5 position within a year after the events in question).

22. The case law relied on by Ms. Gusarova in support of her claim for greater material damages, involved candidates that could have been appointed to posts, whereas in Ms. Gusarova’s case, her selection would only have put her on the roster.

23. With regard to the aggravating factors of bias and abuse of authority cited by Ms. Gusarova in her appeal, the Secretary-General argues that she did not make those arguments before the Dispute Tribunal and has offered no evidence of aggravating factors such as to merit an increase in compensation for material damage.

24. Furthermore, Ms. Gusarova is making unsupported arguments on appeal that she did not make before the Dispute Tribunal.

³ *Solanki v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-044, para. 20; *Lutta v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-117, para. 14.

25. With regard to her claim that she should have been given an opportunity, following the judgment on the merits, to make her case for moral damages, the Secretary-General contends that there is nothing in the Dispute Tribunal Statute or Rules of Procedure or in the Appeals Tribunal's jurisprudence to say that a staff member is allowed to present only half of his or her case before the Dispute Tribunal or that he or she is entitled as of right to separate hearings on merits and remedies or the opportunity to present further evidence. He argues that the UNDT application form requires the staff member to list the remedies sought and to provide supporting documentation. Many UNDT cases deal with merits and remedies in a single judgment. Some eight months after her application to the UNDT, Ms. Gusarova submitted further evidence, yet she did not file evidence with regard to moral injury. He submits that Ms. Gusarova's claim that she was denied an opportunity to present her case on moral injury is untenable.

26. In any event, Ms. Gusarova, in her appeal, has not demonstrated that there is any evidence of moral injury that she could have addressed before the Dispute Tribunal that would have justified such a finding. There is no merit in her claim to have been "publically humiliated" since the interview process was confidential. With regard to her claim that she was unfairly treated by the Interview Panel, Ms. Gusarova's objection was with the *substance* of the communications not the manner in which they were delivered.

27. The Secretary-General further contends that Ms. Gusarova's exclusion from the P-5 selection process, while determined by the Dispute Tribunal to have been illegal, was not found to have been wrongfully carried out. He further states that even if Ms. Gusarova had given evidence to the Dispute Tribunal regarding her outrage and humiliation, the established jurisprudence would have precluded an award of moral damages.

The Secretary General's Cross-Appeal

28. The Secretary-General submits that the UNDT erred in law in relying on *Marsh*⁴ and awarding USD 3,000 to Ms. Gusarova and contends that the facts in that case and Ms. Gusarova's circumstances are distinguishable. In *Marsh*, the Appeals Tribunal noted the Dispute Tribunal's observation that Mr. Marsh was one of three candidates and was disadvantaged by the selection of a candidate who had been wrongfully included in the process. The Appeals Tribunal thus upheld the Dispute Tribunal's finding that, absent the

⁴ *Marsh v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-205.

wrongfully included candidate, Mr. Marsh would have had a “substantially increased” chance of being placed on the roster, as one of what would have been two candidates.

29. The Dispute Tribunal declined to make any substantiated findings about Ms. Gusarova’s chances of being placed on the roster but then went on to find that she “might have been recommended to be put on the roster”, had she been interviewed on 7 July 2011.

30. The Secretary-General argues that this was speculation on the part of the Dispute Tribunal and asserts that speculation is insufficient to meet the Appeals Tribunal’s threshold as to what must be satisfied for an award of material damages. The Dispute Tribunal did not make any assessment of the likelihood of Ms. Gusarova being appointed to the roster on the basis of empirical evidence. It did not make any findings about how many candidates had applied, how many were ultimately rostered or how many like Ms. Gusarova were applying as a P-3 for a P-5 post. There was thus no evidence on the record before the Dispute Tribunal that could have substantiated that Ms. Gusarova would have had more than a ten per cent chance of being rostered, as required by *Hastings*.⁵ As such, the Dispute Tribunal had an insufficient basis for an award of material damages and the Secretary-General requests that the Appeals Tribunal vacate the award.

31. There was no answer to the Secretary-General’s cross-appeal.

Considerations

32. Ms. Gusarova appeals the Judgment of the Dispute Tribunal on the basis that it erred in law in restricting compensation for material damages to USD 3,000 and erred in finding that there was no basis to make an award of moral damages.

33. The Secretary-General cross-appeals on the basis that the UNDT erred in law in finding that Ms. Gusarova’s circumstances merited an award of material damages.

34. Because of the nature of the cross-appeal, we will firstly address the issues raised therein before considering Ms. Gusarova’s appeal.

⁵ *Hastings v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-109.

The Secretary-General's cross-appeal on material damages

35. In support of his contention that an award of USD 3,000 material damages was not merited in this case, the Secretary-General relies on the jurisprudence of the Appeals Tribunal in *Hastings* wherein the Appeals Tribunal emphasized that where a loss of chance becomes speculative (including, but not limited to, being a less than a ten per cent chance) damages should not be awarded. The Secretary-General describes as speculation the Dispute Tribunal's assessment that had Ms. Gusarova been interviewed on 7 July 2011, "she might have been recommended to be put on the roster". Both the Secretary-General and Ms. Gusarova acknowledge that the Dispute Tribunal did not embark on an assessment of Ms. Gusarova's chances based on any empirical evidence; it was not ascertained by the UNDT how many candidates had applied for the generic vacancy, how many candidates were successfully rostered following the interview process or how many rostered candidates were in the same position as Ms. Gusarova (applying as a P-3 for a P-5 position).

36. The question for this Tribunal is whether, absent any such empirical evidence, the Dispute Tribunal properly assessed that Ms. Gusarova, had she been interviewed in July 2011, might have been recommended for inclusion on the roster with an ultimate chance of being selected for P-5 positions as they became available.

37. The Dispute Tribunal did not quantify Ms. Gusarova's chance of being selected or indeed her lost chance to considerably improve her status within the Organization at the material time. Does the failure on the part of the Dispute Tribunal to quantify establish that Ms. Gusarova's lost chances were purely speculative, as contended by the Secretary-General?

38. We do not so find. In cases such as the present, the Dispute Tribunal is the body best placed to assess a candidate's chances for selection for placement on the roster. We note that at paragraph 10 of its Judgment, the Dispute Tribunal makes reference to the selection process for the generic vacancy announcement having been completed in September 2011 when "a roster was endorsed and in the following months several of the rostered candidates were selected for posts at the P-5 level". We are thus satisfied that the fact that there were several candidates selected from the roster in the months following the roster approval was sufficient to underpin the UNDT's assessment that Ms. Gusarova's chances were not in the realm of the speculative.

39. Furthermore, we place no reliance on the Secretary-General's argument about the lack of empirical evidence of P-3 candidates being rostered for the P-5 positions, given that the very essence of the Judgment on the merits in this case established Ms. Gusarova's entitlement as a fund's and programme's P-3 staff member to apply for P-5 positions.

40. In all those circumstances, the Appeals Tribunal does not find any merit in the Secretary-General's cross-appeal and it is dismissed accordingly.

Ms. Gusarova's appeal on the quantum of material damages

41. Ms. Gusarova submits that the UNDT failed to properly assess the material damage and failed to analyse appropriate precedents. She takes issue with the amount of compensation awarded and submits that USD 3,000 falls short of the two months' net base salary awarded in *Kozlov and Romadanov*, *Kasyanov* and *Wu*⁶ for irregularities in the selection process and procedural flaws established in those cases. The compensatory awards in those cases were higher than the award of EUR 2,500 in *Marsh* upon which Ms. Gusarova's award of USD 3,000 was based. Ms. Gusarova strongly contends that her material damages compensation should be even higher than in *Kozlov and Romadanov*, *Kasyanov* and *Wu* and indeed higher than the six-months' net salary award made in *Sprauten* and *Muratore* respectively.⁷ Accordingly, Ms. Gusarova claims two years' net base salary by way of compensation for material damages. She places particular reliance on the Dispute Tribunal's failure to consider the discriminatory aspects of the Administration's illegal decision deeming her ineligible to apply for P-5 posts.

42. The Secretary-General distinguishes the Appeals Tribunal's jurisprudence cited by Ms. Gusarova on the basis that in all of those cases staff members could, but for the impugned decisions, have been directly appointed to *positions* which were the subject of selection exercises, rather than, as was the case with Ms. Gusarova's candidacy, to the roster. Many of the cases cited above involve findings of aggravating factors such as actual bias or

⁶ *Kozlov and Romadanov v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-228; *Kasyanov v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-076 and *Wu v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-042.

⁷ In *Sprauten v. Secretary-General of the United Nations* (Judgment No. 2012-UNAT-219), the Appeals Tribunal affirmed the UNDT's award of six months' net base salary as non-pecuniary compensation for substantive irregularities in the selection process. In *Moratore v. Secretary-General of the United Nations* (Judgment No. 2012-UNAT-245), the Appeals Tribunal left undisturbed the UNDT's award of seven months' net base salary for the flawed selection processes.

abuse of authority. In her submissions to this Tribunal, Ms. Gusarova claims that the actions of the interview panel amounted to an abuse of authority and thus, as an aggravating factor, this warranted an increased compensatory award. Ms. Gusarova did not advance an abuse of authority claim before the Dispute Tribunal. Even if such a claim had been advanced, we are not satisfied, given the circumstances of the present case, that such an argument would have found favour with the Dispute Tribunal. The available documentary evidence suggests that, at most, Ms. Gusarova's declared ineligibility arose as a misconceived interpretation and application by the Administration of ST/AI/2010/3.

43. On the issue of what damages should be awarded where an infringement of a staff member's rights is established, the Appeals Tribunal has stated that the Dispute Tribunal is the forum best placed to assess monetary compensation.⁸ The Appeals Tribunal will not lightly trespass upon the UNDT's function in this regard. It is from this perspective that we consider Ms Gusarova's claim for an increased award of material damages.

44. We are persuaded that, at its height, Ms. Gusarova's expectation, had she passed the interview, was to secure a place on the generic roster and, ultimately, possible selection for a P-5 post. It must also be factored that Ms. Gusarova's objective of gaining a P-5 position came to pass a year after the events in this case. We, however, regard as significant the fact that several of the candidates for the generic vacancy were selected for positions in the months following the roster approval. This fact merited due consideration. We hold that the Dispute Tribunal did not pay due regard or attach sufficient weight to the aforesaid factor. We hereby substitute the sum of USD 3,000 with an award of two months' net base salary.

Ms. Gusarova's appeal against the Dispute Tribunal's failure to award moral damages

45. With regard to Ms. Gusarova's arguments on the failure of the UNDT to award moral damages, the Appeals Tribunal, noting her claim of procedural unfairness on the part of the UNDT, took the opportunity of analysing the record of the proceedings before the Dispute Tribunal. Having listened to the recording of the proceedings, we find no merit in Ms. Gusarova's contention that her Counsel had requested that in the event negotiations on

⁸ *Goodwin v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-346; *Andersson v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-379.

mutual settlement would not be successful, she would be given an opportunity to submit additional evidence of moral (and material) damages.

46. It is certainly the case that in her application to the UNDT, Ms. Gusarova reserved the right to present further detailed submissions on remedies following a finding of the Dispute Tribunal on liability. We are satisfied, however, that that request was superseded by the events before that Tribunal. We note, in particular, that after giving direction on time limits for the parties to either pursue a negotiated settlement or mediation, the Dispute Tribunal unequivocally stated that in the event the parties did not agree on the mediation route, the UNDT proposed no further oral hearing and stated it would render a decision in the case. Furthermore, we note that at an earlier stage of the proceedings, the Dispute Tribunal itself alluded in a general way to factors which might be pertinent to any award of compensation Ms. Gusarova might obtain, in the event her application were successful. We are thus satisfied that there was sufficient opportunity for her either to make her case for moral damages there or then or, knowing that it was not the intention of the UNDT to have a further hearing, request that such further hearing be convened or time given for written submissions for the purpose of affording her the opportunity to make her case for damages, moral or otherwise.

47. In all of the circumstances, we find no merit in her claim of procedural unfairness.

48. Before this Tribunal, Ms. Gusarova argues that moral damages are warranted because of her alleged mistreatment by the Interview Panel and alleged mistreatment in the aftermath of the interview process, as detailed in her submissions to this Tribunal. The extensive case she now makes ought to have been pursued at the UNDT stage. That was not done. We note that the Dispute Tribunal did consider whether moral damages ought to be awarded and concluded that same were not merited as she had not substantiated her claim for mental distress. We find no error of law on the part of the UNDT in this regard. Furthermore, we do not find that the infringement of her right to participate in the interview, duly found by the UNDT, of itself merits an award of moral damages, in all the circumstances of this case.

49. We are satisfied that the award of material damages of two months' net base salary adequately meets the injustice done to Ms. Gusarova.

50. Her claim for moral damages is thus dismissed.

Judgment

51. Ms. Gusarova's appeal is upheld in part. The UNDT's finding of no entitlement to moral damages is upheld. The UNDT's award of USD 3,000 for material damages is vacated and substituted with an award of two months' net base salary, with interest at the US Prime Rate accruing from the date of the UNDT Judgment. This amount shall be paid within 60 days from the date this Judgment becomes executable. If the sum is not paid within the 60-day period, an additional five per cent shall be added to the US Prime Rate until the date of payment.

52. The Secretary-General's cross-appeal is dismissed.

Original and Authoritative Version: English

Dated this 27th day of June 2014 in Vienna, Austria.

(Signed)

Judge Faherty, Presiding

(Signed)

Judge Weinberg de Roca

(Signed)

Judge Adinyira

Entered in the Register on 29th day of August 2014 in New York, United States.

(Signed)

Weicheng Lin, Registrar