



Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Nerea Suero Fontecha

RUSSO-GOT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

ON INTERPRETATION

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Jameel Baasit, UNOPS

Notice: This Judgment has been corrected in accordance with art. 31 of the Rules of Procedure of the United Nations Dispute Tribunal.

Introduction

1. In Judgment No. UNDT/2020/075, the Tribunal rejected the Applicant's application and the case was thereby closed.

2. On 2 June 2020, the Applicant filed an application for interpretation, referring to paras. 14 to 17 of Judgment No. UNDT/2020/075.

Consideration

3. In accordance with art. 30 of the Rules of Procedure of the Dispute Statute, a party "may apply to the Dispute Tribunal for an interpretation of the meaning or scope of a judgement" (in line herewith, see art. 12 of its Statute).

4. The Appeals Tribunal has held that "[i]t is trite law that interpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubt about the will of the Tribunal or the arguments leading to a decision". Accordingly, "if the judgment is comprehensible, whatever opinion the parties may have about it or its reasoning, an application for interpretation is not admissible". See para. 20 of *Porter* 2017-UNAT-796.

5. Paragraphs 14 to 17 of Judgment No. UNDT/2020/075, to which the Applicant refers, form part of the Tribunal's presentation of the applicable law and provides as follows:

... Specifically regarding selection and promotion decisions, in light of the Administration's broad discretion in such matters, the Appeals Tribunal has held that these types of decisions are governed by the so-called "principle of regularity". This means that if the Respondent is able "to even minimally show that [an applicant's] candidature was given a full and fair consideration, then the presumption of law stands satisfied". To rebut this minimal showing, the applicant "must [then] show through clear and convincing evidence that [s/he] was denied a fair chance of promotion" in order to win the case (*Lemonnier* 2017-UNAT-762, para. 32).

... In line herewith, the Appeals Tribunal stated in *Verma* 2018-UNAT-829 (affirmed in *Kinyanjui* 2019-UNAT-932) that, “In terms of the discretion vested in the Administration, under Article 101(1) of the United Nations Charter and Staff Regulations 1.2(c) and 4.1, the Secretary-General has broad discretion in matters of staff selection. The jurisprudence of the Appeals Tribunal has clarified that, in reviewing such decisions, it is the role of the Tribunals to assess whether the applicable regulations and rules have been applied and whether they were applied in a fair, transparent and non-discriminatory manner. The Tribunals’ role is not to substitute their decision for that of the Administration” (see para. 13).

... In *Verma*, 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 uphold the selection/promotion” (see para. 14).

... To minimally show that an applicant’s candidature was given a full and fair consideration, the Respondent must therefore typically, at a minimum, be able to produce a contemporaneous written record to demonstrate that the candidature of the applicant in question, as a matter of fact, received such consideration. Such written evidence can, for instance, include documentation for the established grading methodology, the applicable passing score, the actual grades given, any assessment report(s) and memoranda, and any other relevant material.

6. In the application for interpretation, the Applicant does not question whether this presentation of the applicable law is comprehensible, but rather intends to reargue his case that the contested selection processes were unlawful. As the Tribunal further finds that paras. 14 to 17, as well as the remaining parts of Judgment No. UNDT/2020/075, are straightforward and easy to understand, the application is therefore inadmissible under *Porter*.

7. The Tribunal observes that an application like the present one is nothing but frivolous and only serves to waste valuable judicial resources. For future reference, it is further noted that art. 10.6 of the Statute of the Dispute Tribunal provides that “[w]here the Dispute Tribunal determines that a party has manifestly abused the proceedings before it, it may award costs against that party” and that the Appeals

Tribunal has previously upheld the Dispute Tribunal's award of costs for the filing of a frivolous application (see *Mosha* 2014-UNAT-446 and *Terragnolo* 2015-UNAT-566).

Conclusion

8. The application for interpretation is rejected.

(Signed)

Judge Alexander W. Hunter, Jr

Dated this 3rd day of June 2020

Entered in the Register on this 3rd day of June 2020

(Signed)

Nerea Suero Fontecha, Registrar, New York