



Before: Judge Thomas Laker

Registry: Geneva

Registrar: René M. Vargas M.

WANG

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON
APPLICANT'S MOTION FOR
PRODUCTION OF DOCUMENTS
AND
CASE MANAGEMENT**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Bettina Gerber, UNOG

Introduction

1. On 3 August 2012 the Applicant filed his application contesting the decision not to select him for the post of Chinese Reviser P-4, Job Opening number: 11-LAN-UN OFFICE AT GENEVA-21443-R-GENEVA in the translation Section of the Languages Service, at the United Nations Office at Geneva.

2. The Respondent filed a reply on 3 September 2012 and on 24 September 2012; the Applicant filed his comments to the Respondent's reply.

Background

3. The Applicant on 4 October 2012 filed a motion for production of documents. On 8 February 2013, the Respondent was instructed to respond to the Applicant's motion and on 5 March 2013, the Respondent filed a response.

4. In his motion the Applicant requested the production of the written tests administered to the shortlisted candidates as part of the selection process so as to verify the scores; he believes that there may have been an inadvertent error in awarding his marks and that two out of the three revisers were negatively biased towards him. Additionally he claims that he has a right to know and to be given his written test and the scores.

5. In his reply, the Respondent avers that the written examinations were evaluated on the basis of accuracy, knowledge of subject matter, attention to detail, readability, terminology, grammar and style. The tests were conducted anonymously and the scoring method was fair and equally applied to all candidates. The Respondent is of the view that the Applicant was not prejudiced in any way and that the production of the written test is unnecessary, because there is no causal link between the scores and the selection decision.

Considerations

6. In matters of staff selection, the role of the Tribunal is to assess whether the applicable rules and regulations have been applied and whether they were applied in a fair, transparent and non-discriminatory manner. The Tribunal's role is not to substitute its decision for that of the Administration (see *Ljungdell* 2012-UNAT-265).

7. Therefore, the Tribunal is not in a position to substitute the scores awarded by a panel of reviewers that reviewed the candidates during the written test (see *Xu* 2010-UNDT-002). Differences in scores awarded during a written test, in general, do not amount to anomalies in an evaluation process. The Tribunal notes that in the case at hand such differences in awarding scores between the reviewers have not been restricted to the Applicant but have been attributed to other candidates too.

8. In this instance, the written test was administered in Chinese to all the shortlisted candidates and based on the evaluation form; the scores awarded were founded on accuracy, knowledge of subject matter, attention to detail, readability, terminology, grammar and style of the individual candidates. The Applicant's allegations regarding bias and a lack of anonymity are not based on any facts.

9. The Tribunal finds that the conduct of written tests is an available, but not mandatory assessment tool that is used as an evaluation mechanism to determine whether the shortlisted candidates meet the technical requirements of the job opening (see ST/AI/2010/3 (Staff Selection system) Section 7, paragraph 7.5) In the present case the written test was used as a first step to identify suitable candidates. The Applicant's low marks received during the written test did not curtail his chances of being admitted to the next step which was the competency based interview where he was successful and made it to the list of the recommended candidates. Therefore, the Tribunal finds that the production of the written tests to the Applicant is not necessary for a fair disposal of this case.

Case Management

10. Having considered the Respondent's annexes provided in support of work experience of one C.Y, a selected candidate for the post of Chinese Reviser, the Tribunal finds that it is an important aspect of this case for the Respondent to provide the following documents and/or a comprehensive explanation:

- a. C.Y's complete records of her employment history within the Organization, based on documents indicating the commencing and expiration dates of her contracts and the job descriptions of the posts occupied by C.Y;
- b. Basis of the submission made in the reply "that the established monthly workload standard for a UN translator is 34, 650 words per month" and
- c. As to the calculation method used to determine that the selected candidate's part-time experience was equivalent to 55% of a full time employment within the United Nations.

Conclusion

11. In view of the foregoing, it is **ORDERED** that:

- a. The Applicant's motion is rejected.
- b. The Respondent shall provide the above requested documents and/or a comprehensive explanation to paragraph 10 (a to c) by **Friday, 17 May 2013 at 5:00 p.m.**

(Signed)
Judge Thomas Laker

Dated this 3rd day of May 2013

Entered in the Register on this 3rd day of May 2013

(Signed)

René M. Vargas M., Registrar, Geneva