



Before: Duty Judge

Registry: Geneva

Registrar: René M. Vargas M.

SAMANDAROV

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Jérôme Blanchard, HRLU, UNOG

Introduction

1. The Applicant, a staff member of the Office of the United Nations High Commissioner for Human Rights (“OHCHR”), contests the decision not to select him for the position of Human Rights Officer at the P-4 level in the United Nations Assistance Mission in Afghanistan (“UNAMA”), advertised under Job Opening No. 210982 (“JO 210982”).
2. On 15 July 2024, the Respondent filed his reply.
3. On 18 July 2024, the Applicant filed a motion for production of evidence.
4. By Order No. 107 (GVA/2024) of 11 September 2024, the Tribunal ordered the Respondent, *inter alia*, to file his comments on the Applicant’s motion for the production of evidence by 26 September 2024.
5. On 26 September 2024, the Respondent filed his comments on the Applicant’s pending motion and requested the Tribunal that annexes to his reply be placed *under seal* in its Court Case Management System (“CCMS”). By email of 27 September 2024, the Respondent clarified that the documents in question were annexes 2, 3, 4, 5, and 6 to his reply.

Consideration

The Applicant’s motion for production of evidence

6. In his motion, the Applicant requests the Tribunal to order the production of the following evidence:
 - a. Contemporaneous written record of the decision showing why [he] had not been shortlisted for further review, which had to be prepared by the Administration as part of the review of [his] application; and
 - b. Personnel Action Forms (“PAFs”) of Mr. [ZD], Ms. [TO] and Mr. [DS] and a document showing Mr. [S]’s arrival date to Mazar-e-Sharif (e.g., UNAMA Flight Manifest and/or approval Travel Request).

7. The Applicant submits that while the Administration claimed that his candidacy received full and fair consideration, it failed to provide any evidence that the desk review was indeed conducted in line with the rules, in a timely fashion, and properly documented by the hiring manager. He argues that the Administration only produced a document titled “Comparative Analysis of Preliminary Evaluation,” where his name is listed in row 53, but the document does not contain any analysis or assessment of his or any other candidate’s qualifications. He points out that the document has no indication of its origin or date of creation, lacks the identification of the maker of the contested decision, and has no indication that it was a part of the desk review. The document also lacks information on the short-listed candidates and does not explain why he was not short-listed compared to the candidates who had been.

8. The Respondent submits that the Tribunal already has all the documents necessary to assess the lawfulness of the contested decision. He argues that the decision was based on the Applicant’s Personal History Profile and Administrative Profile, and that his experience as Officer-in-Charge was noted. He further submits that the Applicant’s request to produce the PAFs of third parties is overly broad.

9. Art. 9 of the Tribunal’s Statute provides that the Tribunal “may order production of documents or such other evidence as it deems necessary.” Similarly, art. 18 of the Tribunal’s Rules of Procedure provides that the Dispute Tribunal may order the production of evidence that “appears to the [Tribunal] to be necessary for a fair and expeditious disposal of the proceedings”.

10. Having considered the case record, the Tribunal considers it appropriate to grant the Applicant’s request to disclose contemporaneous written records from the Administration or the hiring manager related to the review of the Applicant’s candidacy only and to why he was not shortlisted for further consideration. Indeed, the “Comparative Analysis of Preliminary Evaluation” does not show how the Applicant’s candidacy was assessed.

11. Concerning the Applicant's request for the PAFs of other staff members, the Tribunal finds that such information is irrelevant. Indeed, the PAFs of other staff members contain confidential and privileged information of third parties that is unnecessary for the fair and expeditious disposal of the present case.

The Respondent's motion

12. Counsel for the Respondent notes that the annexes provided with his reply to the application were not redacted as appropriate and contain confidential information on third parties and privileged information regarding the selection exercise.

13. Counsel for the Respondent acknowledges the oversight and requests that Annexes 2 to 6 of the reply be placed under seal in CCMS.

14. Having considered the content of Annexes 2, 3, 4, 5 and 6 to the reply, the Tribunal finds it appropriate to grant the Respondent's motion and to place said annexes under seal in CCMS.

Filing of a rejoinder

15. Having perused the case file, the Tribunal considers it appropriate and in the interest of justice to direct the Applicant to file a rejoinder.

Amicable settlement

16. Recalling that the General Assembly has consistently encouraged alternative dispute resolution, the Tribunal finds it also appropriate to encourage the parties to explore the possibility of having their dispute resolved without recourse to further litigation.

Conclusion

17. In view of the foregoing, it is ORDERED THAT:

- a. The Applicant's motion is partially granted;

- b. By **Wednesday, 9 October 2024**, the Respondent shall produce the evidence indicated in para. 10 above;
- c. The Respondent's motion is granted as per para. 14 above and annexes 2, 3, 4, 5 and 6 to the reply will be placed under seal in CCMS;
- d. By **Wednesday, 23 October 2024**, the Applicant shall file a rejoinder; and
- e. The parties shall explore resolving the dispute amicably and revert to the Tribunal in this respect by **Wednesday, 30 October 2024**.

(Signed)

Judge Sean Wallace (Duty Judge)

Dated this 1st day of October 2024

Entered in the Register on this 1st day of October 2024

(Signed)

René M. Vargas M., Registrar, Geneva