



UNITED NATIONS DISPUTE TRIBUNAL

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| Case No.: | UNDT/NBI/2024/049 |
| Order No.: | 143 (NBI/2024) |
| Date: | 14 October 2024 |
| Original: | English |

Before: Duty Judge

Registry: Nairobi

Registrar: Wanda L. Carter

KEBEDE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Al Hagi Marong, UNECA

Introduction

1. Currently pending is a motion for Summary Judgment filed by the Applicant. The motion is insufficient on its face, and thus there is no need for a response to be filed.

2. Article 9 of the Dispute Tribunal Rules of Procedure addresses summary judgment. Specifically, it provides that

A party may move for summary judgement when there is no dispute as to the material facts of the case and a party is entitled to judgement as a matter of law. The Dispute Tribunal may determine, on its own initiative, that summary judgement is appropriate

3. It is clear from a review of the Applicant's motion that there is a dispute as to the material facts of the case. The motion begins with the heading "Submission of false statement" and then seeks to rebut a statement in the Reply that, in a Competency Based Interview ("CBI") process, he "was rated 'Partially Satisfactory' in all three competencies, which was below the threshold required for selection."

4. Similarly, the motion goes on to contest statements from the Reply including that "the selected candidate demonstrated superior qualifications and performance during the interview process."

5. Whether a statement is true or not is the essence of a dispute as to a material fact. For that reason alone, summary judgment is not appropriate.

6. However, the Tribunal notes that the Respondent filed no documents annexed to the Reply and instead relies on the annexes to the Application. In particular, the Respondent repeatedly references the decision on the Applicant's request for management evaluation (mistakenly calling it annex 34 rather than annex 34a). In particular, the Respondent cites this document as proof of the facts that the Applicant attacks in his motion for summary judgment.

7. Annex 34a is at best second or third level hearsay as to facts material to this case, to wit, the Applicant's rating in the CBI, and the qualifications and ratings of

the selected candidate. The best evidence of those facts would be relevant records of interview panel (i.e., the CBI report) and the hiring manager. This is particularly true in this case where the Applicant alleges that the Management Advice and Evaluation Section relied on “half-truth and falsehood”.

8. Pursuant to Article 9 of the Dispute Tribunal Statute, and Article 18 of the Tribunal’s Rules of Procedure, it is deemed necessary that these records be produced by the Respondent. In the interest of privacy however, the name and personal data of the selected candidate shall be redacted.

Conclusion

9. Therefore, the Dispute Tribunal DETERMINES that:

- a. The Applicant’s motion for summary judgment is denied; and
- b. The Respondent shall file, by 1 November 2024, redacted copies of the CBI report showing the Applicant’s rating interview, the selected candidate’s interview rating, and the qualifications of the selected candidate.

(Signed)

Judge Sean Wallace (Duty Judge)

Dated this 14th day of October 2024

Entered in the Register on this 14th day of October 2024

(Signed)

Wanda L. Carter, Registrar, Nairobi