



Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Nerea Suero Fontecha

WILSON

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Alan Gutman, ALD/OHR

Note: This order has been corrected according to the Dispute Tribunal's practice.

Introduction

1. The present case, when it was entered in our registry on 30 June 2017, was assigned to Judge Alessandra Greceanu (*ad litem* Judge at the Dispute Tribunal in New York) and was thereafter handled by her.
2. On 22 December 2018, the General Assembly decided not to extend the *ad litem* judge position in New York, which expired on 31 December 2018. For further information, see General Assembly resolution 73/276 (Administration of justice at the United Nations).
3. On 11 January 2019, the case was therefore reassigned to the undersigned Judge.

Consideration

4. After careful perusal of the case file and based on the parties' submissions, on a preliminary basis and without prejudice to any subsequent findings, the Tribunal identifies the issues of the case as follows:
 - a. Was the cancellation of Job Opening No. 54326 and Temporary Job Opening No. 52485, respectively, regarding the D-2 level position of Director of Information Systems and Technology handled in accordance with relevant law and procedures?
 - b. Similarly, was the subsequent transfer of a staff member to the relevant position made in accordance with relevant law and procedures?
 - c. Finally, were any or both of the above stated decisions motivated by extraneous considerations, whether they be bias, prejudice, interest, etc?
5. The Tribunal observes that the Applicant also appears to challenge that the deadline for filing job applications to Job Opening No. 54326 was extended for one month to favor certain other job applicants. However, as the selection process was

subsequently cancelled, any issue involving the possible time extension of the application deadline has now become moot and, therefore, is no longer relevant to this case. Unless this Tribunal's position on this question is otherwise challenged or contradicted, the Tribunal will therefore not consider this particular matter.

6. The Tribunal further observes that, as per Order No. 38 (NY/2018) dated 15 February 2018, the parties' filed their closing statements on 2 April 2018. However, the Applicant in his closing submission appears to make a number of new factual and legal submissions to which the Respondent has not had a chance to respond. Also, by email of 25 September 2018, the Applicant made even further additional submissions which this Tribunal deems to be *dehors* the record.

7. The Tribunal notes that the purpose of a closing statement is to summarize a party's submissions based on the facts, evidence and legal arguments that have already been presented to the Tribunal and before the Tribunal can make a final determination on a substantive matter, the opposite party must generally be offered an opportunity to comment on and make counterarguments thereto. This follows from the legal principle of the right of reply (in Latin: *audi alteram partem*), as also endorsed by the Appeals Tribunal (see, for instance, *Haroun* 2017-UNAT-720). Furthermore, with the apparent introduction of additional facts as part of the Applicant's closing statement, the Tribunal would no longer have a proper overview of the Applicant's factual submissions and it is not clear what the Respondent's position would be in this regard. Accordingly, the extra matters before the Tribunal will be disregarded and stricken from the record.

8. For the fair and expeditious disposal of the case and to do justice to the parties,

IT IS ORDERED THAT:

9. By **4:00 p.m. on Thursday, 21 February 2019**, the parties are to file a jointly signed statement providing, under separate headings, the following information:

- a. A consolidated list of the agreed facts. In chronological order, this list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning;
- b. A consolidated list of the disputed facts. In chronological order, the list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning. If any documentary evidence is relied upon to support a disputed fact, clear reference is to be made to the appropriate annex in the application or reply, as applicable. At the end of the disputed paragraph in square brackets, the party contesting the disputed fact shall set out the reason(s);
- c. Whether the parties request a hearing for witnesses to provide testimony to support any disputed facts or any other issue and, if so:
 - i. Provide a list of the witnesses that each party proposes to call; and
 - ii. Provide a brief statement or summary of the issue and/or disputed fact(s) to be addressed by each witness;
- d. If the parties would be willing to enter into negotiations on resolving the case amicably either through the assistance of the Office of the Ombudsman and Mediation Services or *inter partes*.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 17th day of January 2019