



Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Nerea Suero Fontecha

MOHAMED

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Joseph Grinblat

Counsel for Respondent:

Christine Graham, AAS/ALD/OHR, UN Secretariat

Introduction

1. On 12 January 2017, the Applicant filed the application contesting the “non-selection of [the] Applicant for a [Senior Human Resources Policies Officer] P-5 post ... [“the Post”] and selection of a non-qualified candidate instead”.
2. On the same day, the case was assigned to Judge Alessandra Greceanu and thereafter handled by her.
3. After various case management steps and a hearing, on 16 May 2018, both parties submitted their respective closing submissions.
4. 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).
5. On 8 January 2019, the Applicant filed a submission titled, “New information about [the Office on Internal Oversight Services] and [the International Civil Service Commission (“ICSC”)]”, and appended some new documentation.
6. On 18 January 2019, the Respondent filed (a) a motion to file amended closing submissions and (b) the proposed amended closing submissions.
7. On 11 January 2019, the case was reassigned to the undersigned Judge.

Consideration

8. After closely perusing the case record, as a preliminary matter, it appears to the Tribunal that a possible receivability question has not been covered in the parties’ submissions, namely if the issue regarding whether the selection process was tainted

by ulterior motives on the basis that the Applicant had allegedly rejected sexual advances from the Chairman of ICSC, has undergone management evaluation in accordance with staff rule 11.2. In this regard, the Tribunal notes that it is competent to raise a receivability issue on its own initiative as confirmed by the Appeals Tribunal in, for instance, *Tintukasiri et al.* 2015-UNAT-526, where it held that:

32. Initially, the Appellants complain that the Dispute Tribunal exceeded its competence when it raised *sua sponte* the question of whether the applications were receivable *ratione materiae* in Order No. 14. There is no merit to this complaint. As our jurisprudence makes clear, the Dispute Tribunal “is competent to review its own competence or jurisdiction” under Article 2(6) of the UNDT Statute and “[t]his competence can be exercised even if the parties or the administrative authorities do not raise the issue, because it constitutes a matter of law [...]”. [*Christensen* 2013-UNAT-335, paras. 20-21 and *Chahrour* 2014-UNAT-406, paras. 28-29].

9. Before entering into an examination of the merits of the present case, referring also to the Appeals Tribunal’s jurisprudence on the requirement of management evaluation, the Tribunal therefore instructs the parties to file submissions thereon. In this regard, the Tribunal observes that the Applicant has also filed a separate case before the Dispute Tribunal (Case No. UNDT/NY/2018/036), which has also been reassigned to the undersigned Judge, in which she challenges not being informed about the outcome of “the investigation made by OIOS, about the accusation for sexual harassment she had made against [name redacted], Chairman of ICSC, as she was entitled [to] according to instructions from OHRM and para. 5.18 (c) of SGB/2008/5”.

IT IS ORDERED THAT:

10. By **4:00 p.m. on Friday, 1 March 2019**, the parties are to file submissions on the issue of whether the Applicant’s claim that the selection process was tainted by her

having allegedly rejected sexual advances by the ICSC Chairman is receivable as part of the present case.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 15th day of February 2019