



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/051/T

Order No.: 008 (NY/2022)

Date: 17 January 2022

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

PONCE GONZALEZ

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

George Irving

Counsel for Respondent:

Nicole Wynn, ALD/OHR, UN Secretariat

Maureen Munyolo, ALD/OHR, UN Secretariat

Introduction

1. The Applicant, a staff member of the United Nations Interim Security Force for Abyei (“UNISFA”) appealed the decision not to select him for a post of Chief Operations and Resources Management in UNISFA at the P-5 level (“contested decision”).
2. By Order No. 003 (NY/2022) dated 11 January 2022, the Tribunal directed the Applicant to provide a response to the Respondent’s reply.
3. On 14 January 2021, the Applicant requested the disclosure of additional evidence and to be allowed to provide a response to the reply upon receipt of the requested documents.

Consideration

4. The Applicant requests the submission of evidence that the “Hiring Manager was delegated authority to make the decision in question”.
5. He further seeks that the Respondent clarify the rationale for his disqualification for the vacancy under review in this case, including the comparative analysis that led to the Applicant’s candidacy being excluded.
6. The Applicant also requests the comparative analysis and copies of the personal history profiles (“PHP”) of the two candidates that were shortlisted along with the selected candidate in the contested selection exercise.
7. Finally, the Applicant requests the production of the evidence that the Hiring Manager was delegated authority to make the “decision in question”.
8. The Tribunal notes that in reviewing the legality of selection exercises, its jurisdiction is limited to determining whether the applicable procedure was followed

and whether the applicant's candidature was afforded full and fair consideration (see, for instance, *Abassi* 2011-UNAT-110).

9. In the present case, the contested decision followed a "recruit from roster" selection exercise. The Tribunal will therefore examine whether the selection decision followed the provisions of ST/AI/2010/3 (Staff selection system).

10. The Tribunal notes that in Judgement UNDT/2021/161 (paras. 46-47) the Tribunal was not satisfied that the Respondent had adequately shown that the Chief of Mission Support of UNISFA had the required delegated authority to make appointments to posts above the P-3/FS-6 level.

11. The contested decision in this case is an appointment at the P-5 level made by the Chief Mission Support of UNISFA, as is shown in the memorandum of 24 November 2020 from the Chief Mission Support to the Chief of Human Resources Officer in UNISFA. The Tribunal therefore deems it relevant to request the Respondent to produce evidence of the Chief of Mission Support's delegated authority to make appointments at the P-5 level in UNISFA.

12. With respect to the Applicant's right to full and fair consideration in the selection process, the Tribunal will examine whether it was within the Administration's discretion to appoint the selected candidate and whether the Applicant was unduly excluded.

13. The Tribunal notes that the Respondent has produced the vacancy notice for the contested post; the comparative review of all the candidates; the PHPs of both the Applicant and the selected candidate, and the comparative analysis review of the selected candidate.

14. While the Tribunal considers the evaluation of other shortlisted candidates to be irrelevant for the determination of whether the Applicant's candidacy was given full and fair consideration, it agrees with the Applicant that the comparative analysis of his candidacy is required to this effect.

15. In light of the above,

IT IS ORDERED THAT,

16. The Applicant's motion is granted in part;

17. By **4:00 p.m. on Tuesday, 25 January 2022**, the Respondent will submit the evidence of UNISFA's Chief of Mission Support's delegated authority to make appointments at the P-5 level and the comparative analysis review of the Applicant's PHP;

18. The request for submission of documents pertaining to the candidacy of other candidates for the disputed post is rejected;

19. By **4:00 p.m. on Tuesday, 8 February 2022**, the Applicant may submit his response to the reply. This submission shall not exceed eight pages, using Times New Roman, font 12 and 1.5 line spacing;

20. By **4:00 p.m. on Tuesday, 22 February 2022**, the Respondent may respond to the Applicant's submission. This submission shall not exceed eight pages, using Times New Roman, font 12 and 1.5 line spacing;

21. Upon receipt of the above-referred submission or at the expiration of the deadline provided, the Tribunal will provide any additional instructions.

(Signed)

Judge Joelle Adda

Dated this 17th day of January 2022