



Before: Judge Francis Belle

Registry: New York

Registrar: René Vargas, Officer-in-Charge

RAO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Omar Yousef Shebabi, OSLA

Counsel for Respondent:

Clementine Foizel, AAS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant, a P-5 Chief of Section, Inspection and Evaluation, Office of Internal Oversight Services (“OIOS”), contests the 16 March 2021 decision not to consider her for the position of Chief of Service, Monitoring and Evaluation at the D-1 level, Department of Management Strategy, Policy and Compliance, Business Transformation and Accountability Division (“DMSPC/BTAD”), advertised through Job Opening No.127555 (“JO 127555”).
2. On 12 May 2021, the Applicant requested management evaluation of the contested decision.
3. On 16 June 2021, the Chef de Cabinet, Executive Office of the Secretary-General, decided to uphold the contested decision.
4. On 14 September 2021, the Applicant filed the instant application.
5. On 13 October 2021, the Respondent filed his reply.

Consideration

6. With the application, the Applicant filed a motion for production of evidence requesting the Tribunal to order the Respondent to disclose:
 - a. All documents relating to the assertion that it was established before the start of the assessment process that to meet one specific criterion in JO 127555, the candidates would have to have supervised at least 10 staff members;
 - b. All documents relating to the interpretation and application of the job opening’s requirement of “experience in leading large teams” and the “threshold of supervising at least 10 staff members” established by the administration;

c. All documents relating to the criteria used (mandatory, desirable, “is an advantage”, and other considerations) for purposes of short-listing candidates, determining short-listed candidates to be suitable for the position, and recommending the selected candidate.

7. In contrast, the Respondent submits that the evidence required by the Applicant is irrelevant to the facts under dispute, which are limited to review whether the hiring manager lawfully exercised his discretion in the assessment of the Applicant’s Personal History Profile (“PHP”). Further, the Respondent claims that the request for “all documents” is overly broad and constitutes a fishing expedition, which has already been prohibited by UNAT.

8. Having examined the parties’ submissions, the Tribunal does not see any relevance in the generic documents requested by the Applicant. The instant case is limited to reviewing the screening process concerning JO 127555, specifically to determine whether (a) the administration lawfully exercised its discretion in establishing the threshold of supervising at least 10 staff members, and (b) whether the hiring manager lawfully exercised his discretion in assessing the Applicant’s PHP.

9. Any other matter beyond the scope set out above, such as documents relating to the criteria used for purposes of short-listing candidates, determining the candidate’s suitability for the position and recommending the selected candidate, is outside the scope of the instant judicial review.

10. Likewise, “documents relating to the interpretation and application of the job opening’s requirement of experience in leading large teams and the threshold of supervising at least 10 staff members” are irrelevant. The threshold was established and utilized to review all candidacies for JO 127555, and the fact under dispute is whether the Applicant met the job opening’s requirements, not how or when this specific criterion came to be decided.

11. Accordingly, the Applicant’s motion for production of evidence is rejected.

12. Furthermore, the Tribunal hereby advises the parties that it considers to be fully briefed about the issues under dispute and that the matter can be adjudicated based on the parties' written submissions.

Conclusion

13. In view of the foregoing, it is ORDERED THAT

- a. The Applicant's motion for production of evidence is rejected; and
- b. The parties shall provide their respective closing submission by **Thursday, 18 August 2022.**

(Signed)

Judge Francis Belle

Dated this 8th day of August 2022