



JUDGE LUIS MARÍA SIMÓN, Presiding.

6. In total, 13 candidates were interviewed for the three positions by the Selection

11. The UNDT issued Judgment No. UNDT/2010/055 on 31 March 2010. The UNDT found that Abbasi was discriminated against on the basis of her gender. Under UNICEF's Gender Parity and Equality Policy, once Abbasi was invited to be interviewed after she had failed to pass the written examination, UNICEF was estopped from taking into account the scores for the examination in recommending and selecting the successful candidates. When the examination scores were excluded, she was the second-ranked candidate.

12. In light of Abbasi's experience, performance, qualifications, internal status and interview performance, there were sufficient grounds to infer that the reason why she was

16. The Secretary-General also argues that the UNDT exceeded its competence by holding that UNICEF was required to ignore the written examination as part of the overall evaluation of the candidates. It is not the role of the UNDT to substitute its own judgment for that of UNICEF in deciding the criteria for the evaluation of the candidates and how to implement the Gender Parity and Equality Policy. UNICEF's obligation to give preferential treatment to female candidates under the Policy was met by giving Abbasi the opportunity to be interviewed, and UNICEF was entitled to

recommending her for the Quetta position, a “hard and difficult” duty station, knowing that she would not accept it.

21. Abbasi argues that UNICEF’s official records include documents which verify that her degree is from a recognized university.

22. Abbasi submits that the award of damages for distress is reasonable as she has not been dealt with fairly, judiciously or equitably by UNICEF since she challenged the contested decision.

23. Abbasi requests that the Appeals Tribunal dismiss the appeal and affirm the Judgment.

Considerations

24. The Judgment under appeal awarded compensation to Abbasi as a consequence of finding that she suffered from discrimination on the basis of gender during the selection process for three vacancies for the post of Operations Officer in Pakistan.

25. This Tribunal holds that there was no gender discrimination against Abbasi and that, on the contrary, the Administration applied UNICEF’s Gender Parity and Equality Policy in her favour.

26. The UNDT has jurisdiction to rescind administrative decisions concerning the selection of staff on certain grounds. A decision not to select a staff member may be rescinded in eau36 1 Tf71w21Tw(r8(si)58-6.1(9(Dresereds)-5.2()-5.1 -1.64-0.5935 Tc0.0575 T[resci6a)-1.6(not

29. Abbasi failed the written examination. Nevertheless, through affirmative action, the Administration gave her the opportunity to continue to the next stage of the selection process, as she was an internal candidate and the only woman competing. This was a correct application of the UNICEF's Gender Parity and Equality Policy. However it does not follow from the Policy that at the end of the selection process, the results of the written examination should have been ignored for the purpose of assessing the candidates.

30. It is important to recall that a number of the candidates who were short-listed to be interviewed, including Abbasi, failed the written examination. The results of the

Judgment

35. This Tribunal vacates the Judgment under appeal in its entirety.

Original and Authoritative Version: English

Dated this 11th day of March 2011 in New York, United States.

(Signed)

Judge Simón, Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Garewal

Entered in the Register on this 19th day of April 2011 in New York, United States.

(Signed)

Weicheng Lin, Registrar