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Before

Case N

Date:

Regist

Couns

Couns

JUDGE DEBORAH THOMAS-FELIX, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal

... The Civilian Personnel Office conducted the initial screening, and on 30 August 2013 it produced a list of candidates who met the criteria for the Position and another list of candidates who did not. The Applicant was on the list of candidates not meeting the job criteria. On the same day, the then Chief Civilian Personnel Officer ("CCPO") wrote to the Hiring Manager [who was the Chief Civil Affairs Officer] and to [the Senior Political Adviser, UNFICYP], who was the latter's supervisor, explaining that his office had been very "liberal" in the screening to get as many eligible candidates as possible, but that all the local staff of the Mission who had applied to the Position were nonetheless screened out for not having the required professional level experience.

... [The Senior Political Adviser] testified that [...] he told the CCPO that in light of the great interest in the two posts among local staff, it would be a pity not to give any of them a chance to compete. He therefore asked the CCPO to have another look at the list to see if at least one Greek-Cypriot and one Turkish-Cypriot local staff member could be included, and mentioned the Applicant as one of two good internal candidates. [...]

...

... [After further exchanges], the CCPO added the Applicant and another local

tasks related to Civil Affairs. [The new CCPO] explained that since such tasks were not formalized, notably in his terms of reference or in the workplan of his e-Performance document, the discharge of these tasks by the Applicant could not be proven and could not count towards experience. Further, as the Applicant stressed that the work he had done prior to obtaining his Bachelor's had not been taken into account, it was recalled that the JO made it clear that only post-qualification experience would be counted. Finally, [the new CCPO] strongly denied having any "personal reasons" for declaring the Applicant ineligible.

... At the meeting, [the new CCPO] offered [the Applicant ...] a temporary lateral transfer to CAS to allow [him] to gain experience for future eligibility purposes.

... On 29 October 2013, the Applicant requested management evaluation of the impugned decision.

... The Applicant [...] accepted the [lateral transfer] offer by email dated 30 October 2013. [... although] the Applicant's reassignment never materialised.

... At the end of 2013, two external candidates were selected for the Position.

... [On 27 February 2014, t]he contested decision was upheld in management evaluation [...].

... In May 2014, a fact-finding panel was set up to investigate alleged irregularities in the recruitment process for the Position. The corresponding to the alleged irregularities.[2] It also considered that the additional evidence submitted with Mr. Neocleous' closing submissions did not constitute substantive proof of verifiable work experience in the relevant field, and did not affect the outcome of his case.[3] In relation to the merits, the UNDT found that:

a) the new CCPO was entitled to verify whether the candidates for the Position met the minimum requirements specified in the JO;[4]

b)

5.

he *was* eligible. If, as the UNDT contended, the Administration had a duty to correct its wrongs, the UNDT should have corrected the new CCPO's erroneous decision.

12. The UNDT contradicted itself insofar as it stated at paragraph 48 of the Judgment that "[i]t is not for the Tribunal to conduct a new the assessment of candidates substituting its own judgment to that of the Organization", yet agreed with the Administration's assessment of his work experience at paragraph 65 of the Judgment.

13. The UNDT erred in rejecting Mr. Neocleous' own calculation of his work experience which takes into account his work experience gained prior to his Bachelor's degree, given that the Dispute Tribunal in *Korotina* held that it was unlawful not to count a candidate's experience prior to the completion of a degree for the purpose of determining a staff member's experience when applying for a post.[12]

14. The UNDT erred in finding that Mr. Neocleous did not hold a legitimate expectation just because he had gone through the entire recruitment process, given that the Administration has previously hired someone without conducting any recruitment process at all.

15. Mr. Neocleous requests that the Appeals Tribunal correct the UNDT Judgment and compensate him for moral damages, loss of income and any legal costs, as well as assign him to an equivalent position in the same occupational group in a family duty station.

The Secretary-General's Answer

16. The Secretary-General contends that the Appeals Tribunal should limit the scope, page limit and admissibility of aspects of the appeal, which are contrary to the Appeals Tribunal's jurisprudence and administrative requirements. Mr. Neocleous improperly attempts to introduce before the Appeals Tribunal matters falling outside the scope of his management evaluation request, which was confined to challenging his

17. Further, as Mr. Neocleous' pleadings contravene the Appeals Tribunal's filing requirements, which only provide for the filing of an appeal form and appeal brief, the Appeals Tribunal should disregard the annexes to his appeal, and only consider his appeal brief.

18. The UNDT correctly found that the required procedures were followed in respect of the decision to exclude Mr. Neocleous from further consideration for the Position. Having regard to the Organization's staff selection system, the new CCPO was competent to assess Mr. Neocleous' eligibility and to find him ineligible during the selection process.

19. The UNDT also correctly determined that Mr. Neocleous failed to substantiate his claim that the contested decision was tainted by bias. While Mr. Neocleous continues to assert this on appeal, he does not offer any justification why.

20. The UNDT correctly determined that Mr. Neocleous did not establish that he had a legitimate expectation to further consideration, because, regardless of his claim that he was the best performing candidate, he did not have the requisite experience. To accept Mr. Neocleous' argument that he could not be excluded from the recruitment process would imply that the Administration is not entitled to correct a mistaken decision, which is contrary to the Appeals Tribunal's jurisprudence.

21. The UNDT correctly determined that the Administration properly assessed Mr. Neocleous' eligibility for the Position, and found no error in the manner in which the Administration calculated his professional ex

22. Mr. Neocleous has also failed to establish that the UNDT committed any