
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2014/022

Judgment No.: UNDT/2016/021

Date: 14 March 2016

Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

NWUKE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**JUDGMENT ON LIABILITY AND
RELIEF**

Counsel for the Applicant:
Self-represented

He also submitted that the circumstances warranting suspension of waiver or extension of the time limit for filing the Application were caused by the Respondent.

Considerations

6. USRQ SHUXVDO RI WKH 3DUWLHV¶ VXEPLVLRQV W
2014 that the Application was receivable and that the reasons for the decision would be stated in this Judgment.

Receivability

7. On 27 July 2012, the Applicant as required by the Statute of the Dispute Tribunal submitted a request for management evaluation. On 2 August 2012, he submitted a revised version of the request and made four further submissions on the said request, the last of these submissions being on 19 September 2012. His grounds for the request included that his candidacy for the post of Director/GPAD was not accorded full and fair consideration and that the process was flawed for the following reasons:

- a. The selected candidate was ineligible for consideration for the post because he did not have the required lateral moves or speak French or any other United Nations language.
- b. The removal of the Special Notice in the Job Opening was

its outcome on 19 November 2012. He argued that pursuant to the relevant

The purpose and meaning of management evaluation

31. The purpose and meaning of the management evaluation process have been pronounced upon in various judgments of the Dispute Tribunal.

32. MEU came into being pursuant to General Assembly resolution 62/228.⁷ Its purpose is stated in paragraphs 50 and 51 of that resolution.

33. While paragraph 51 reaffirms the importance of exhausting administrative remedies before formal proceedings are instituted within the internal justice system of the Organization, paragraph 50 emphasizes the need to have in place a process that is efficient, effective and impartial.

34. Paragraph 52 of the resolution establishes MEU

administrative decision that was made in error. What is then left is to grant appropriate remedies to the aggrieved staff member.

44. Even if the staff member later decides to go to the Tribunal over the same issue for which the Secretary-General has admitted liability as a result of the

conveyed in the 15 November 2012 letter to the Applicant by the USG/DM. The said letter stated in its second paragraph:

Upon review of the substantive elements of your claim, the Secretary-General decided that:

- x There was a procedural irregularity in the selection process for the post; and that:
- x a decision on appropriate remedies will be made following the outcome of the investigation into your complaint to the Assistant Secretary-General for Human Resources Management (ASG/OHRM) made pursuant to ST/SGB/2008/5, Prohibition of Discrimination, Harassment, Including Sexual Hara

that the favourable outcome of rebuttal proceedings would replace or substitute the poor rating which is the subject matter of the rebuttal process.

Is there a nexus between the breach of a right to due process and the existence of prejudice, bias or abuse of authority?

63. It has been established that following the management evaluation of the

Judgment

69. +DYLQJ IRXQG WKDW WKH \$SSQELFDQWV GXH SUR
Tribunal awards WKUHH PRQWKV¶ QHW EDVH VDODU\ DV FRPSH

(Signed)

Judge Nkemdilim Izuako

Dated this 14th day of March 2016

Entered in the Register on this 14th day of March 2016

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi