



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2016/005

Judgment No.: UNDT/2016/099

Date: 12 July 2016

Original: English

Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Hafida Lahiouel

VAZELLE

v.

considered that the Applicant had not provided evidence in his application for JO 40845 to show that he had experience conducting inter-governmental negotiating processes. He was therefore one of the 98 applicants deemed by the hiring manager to be not suitable for the contested position.

5. By generic email dated 27 October 2015, the Applicant was informed that his application had been unsuccessful.

6. By email dated 29 October 2015, the Applicant sought clarification from the Office of Human Resources Management (“OHRM”) regarding his unsuccessful applications for a number of positions, including the contested position. He stated that he believed he met all the criteria of the relevant job openings. On 6 November 2015, the Applicant sent a further follow-up email seeking clarification.

7. By emails dated 13 and 16 November 2015, a Human Resources Officer from OHRM advised the Applicant to contact the relevant executive office and hiring manager for the relevant positions.

8. By email dated 1 December 2015, the Applicant contacted the Executive Office, Office for Disarmament Affairs, to seek clarification regarding his application for the contested position.

9. By email dated 7 December 2015, the Director and Deputy to the High Representative, Office for Disarmament Affairs, responded to the Applicant’s request for clarification. He stated (emphasis added):

... The Hiring Manager at the time has left [the Office of Disarmament

were therefore not considered as fulfilling the stipulated requirements for the post.

From what I recall, as I was a panel member, there [were] 132 applicants and 14 candidates were interviewed.

10. On 17 December 2015, the Applicant submitted a request for management evaluation of the decision not to consider and/or s

c. **Short List** - these applicants seemingly meet the basic evaluation criteria as well as all defined desirable qualifications as outlined in the job opening. They are considered the most promising applicants for the job and should be convoked to an assessment exercise and/or interview to be conducted by the assessment panel. A rating is required for each area (academic, language and experience) and a general comment is required for ALL applicants.

Consideration

16. In *Abbassi* 2011-UNAT-110, the Appeals Tribunal set out the scope of review of appointments and promotions and stressed that:

23. In reviewing administrative decisions regarding appointments and promotions, the UNDT examines the following: (1) whether the procedure as laid down in the Staff Regulations and Rules was followed; and (2) whether the staff member was given fair and adequate consideration.

24. The Secretary-General has a broad discretion in making decisions regarding promotions and appointments. In reviewing such decisions, it is not the role of the UNDT or the Appeals Tribunal to substitute its own decision for that of the Secretary-General regarding the outcome of the selection process.

17. The Applicant's two primary submissions are that the Administration (a) erred in fact in finding that he did not provide evidence of his experience in conducting inter-governmental negotiating processes; and (b) erred in law, in that the hiring manager unlawfully sought to reassess his eligibility. Neither of these submissions is sustainable.

Was there an error of fact?

18. The Applicant submits that the determination that he did not provide evidence of experience in the conduct of inter-governmental negotiating processes was a palpably unreasonable conclusion to draw from a review of his personal history profile.

error of law for the hiring manager to conduct such an assessment (*Dhanjee* UNDT/2014/029).

Request for disclosure of evidence

24. In his application the Applicant requested the disclosure of evidence as follows: “any and all documents (including, but not limited to, internal notes, memoranda and/or correspondence) related to the Hiring Manager’s assessment of the Applicant’s eligibility.” Given the documentation provided by the Respondent in the reply to the application, and the foregoing findings, the Tribunal considers it unnecessary to grant the Applicant’s request for the disclosure of further evidence.

Conclusion

25. In view of the foregoing, the Tribunal DECIDES:

The application is dismissed.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 12th day of July 2016

Entered in the Register on this 12th day of July 2016

(Signed)

Hafida Lahiouel, Registrar, New York