



UNITED NATIONS APPEALS TRIBUNAL

Case No. 2010-171



Counsel for Respondent/Applicant: Not represented

Counsel for Appellant/Respondent: Phyllis Hwang

JUDGE INÉS WEINBERG DE ROCA, Presiding.

Synopsis

1. An irregularity in promotion procedures will only result in the rescission of the decision not to promote a staff member when he or she would have had a significant chance for promotion. Thus, where the irregularity has no impact on the status of a staff member, because he or she had no foreseeable chance for promotion, he or she is not entitled to rescission or compensation.

Facts and Procedure

2. Ms. Petia Vangelova joined the Office of the United Nations High Commissioner for Refugees (UNHCR) in June 1992 as a Senior Secretary at the G-5 level. In January 2000, she was promoted to the P-2 level and her appointment was converted into an indefinite one. In July 2001, she was promoted to the P-3 level. Since February 2009, Ms. Vangelova has been stationed in Goma, the Democratic Republic of the Congo (DRC), as a Field Officer (Protection).

3. From 15 March 2009 to 21 March 2009, UNHCR conducted the 2008 annual promotion session (2008 session) in accordance with the promotions methodology for that session developed by the Appointments, Postings and Promotions Board (APPB). As far as Ms. Vangelova was concerned, there were 42 slots for promotion from P-3 to P-4.

4. On 28 April 2009, UNHCR published a list of promoted staff. Ms. Vangelova was not among those promoted to the P-4 level.

5. On 26 May 2009, Ms. Vangelova initiated a recourse before the APPB against the decision not to promote her during the 2008 session.

6. The APPB reviewed Ms. Vangelova's request at its recourse session in June 2009. On 28 July 2009, UNHCR announced the results of the APPB's recourse session. Ms. Vangelova was not among the staff members who were promoted following the recourse session.

7. On 25 September 2009, Ms. Vangelova filed a request for management evaluation of the decision not to promote her during the 2008 session and recourse session. By memorandum dated 4 December 2009, the Deputy High Commissioner informed

Ms. Vangelova of outcome of the management evaluation, namely, that the impugned decision had been taken in conformity with the regulations and rules of the Organization.

8. On 4 March 2010, Ms. Vangelova appealed the decision by the Deputy High Commissioner to the United Nations Dispute Tribunal (UNDT or Dispute Tribunal).

9. In Judgment No. UNDT/2010/179 dated 14 October 2010, Judge Cousin ordered the

P-4 did not operate as an absolute bar to the promotion of additional candidates following the recourse session. Indeed, 20 additional staff members were promoted to the P-4 level

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20. Although there was a flaw in the procedure, there was none in not promoting Ms. Vangelova. For this reason, the award of compensation in lieu of the rescission of the contested decision, especially “for the loss of salary due to the denial of promotion in 2008”, is reversed.

21. The UNDT should not have rescinded the decision not to promote Ms. Vangelova,