



JUDGE LUIS MARÍA SIMÓN, Presiding.

Synopsis

1. The United Nations Appeals Tribunal (Appeals Tribunal) is seized of an appeal filed by the Secretary-General of the United Nations on 4 April 2011 against Judgment No. UNDT/2011/034 issued by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York on 18 February 2011. Ms. Kamal filed her answer on 20 May 2011.
2. There is no administrative decision contested in this case. Both parties have accepted the decision to promote Ms. Kamal. Ms. Kamal has not identified any illegality that could lead to an award of compensation, as ordered by the UNDT.
3. The delay in completing the selection proce

8. On 14 April 2005, a single vacancy announcement for the two posts was re-issued. Ms. Kamal and another candidate were recommended for appointment and the recommendations were forwarded to the Central Review Body (CRB) in October 2005.

9. On 17 October 2005, a group of interpreters sent a written complaint to the President of the Staff Union, expressing their concern about the procedures and recommendations and asking for a suspension of the process and the setting up of a joint staff-management task

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20. The Secretary-General submits that the UNDT erred in fact by concluding that the delay in the promotion process was inordinate, unreasonable and unconscionable. Recounting the facts, the Secretary-General submits that any delays resulted from “extraneous factors over which the Administration had no control”; and that “the Administration acted in a manner that was both responsible and responsive to the legitimate

outcome. It is true that the proceedings took more time than usual, but it is also true that there was no deadline to be respected and that Ms. Kamal cannot identify a right to have been selected earlier. And despite this, when appointed in December 2007, she received retroactive payment of salaries, beyond the moment when she was entitled to, as her promotion was deemed effective 14 April 2005.

27. The fact of Ms. Kamal's appointment was an acknowledgement of Ms. Kamal's ability to fill the position after a fair and competitive process, leaving no doubts of the way she obtained it. In light of the moral satisfaction arising from the outcome of the selection exercise, Ms. Kamal could not have suffered special damage from the opportunity of the appointment, which was not supported by evidence.

Judgment

28. The appeal is allowed and the UNDT Judgment vacated.

Original and Authoritative Version: English

Dated this 16th day of March 2012 in New York, United States.

(Signed)

Judge Simón, Presiding

(Signed)

Judge Courtial

(Signed)

Judge Faherty

Entered in the Register on this 7th day of May 2012 in New York, United States.

(Signed)

Weicheng Lin, Registrar