



**United Nations Dispute Tribunal**

Case No.: UNDT/GVA/2009/22  
Judgment No.: UNDT/2009/038  
Date: 16 October 2009  
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9. Over the last three years, he had applied for very difficult posts, but had not been selected; this had had negative consequences on his career path. The points system had retroactively given importance to recommendations made by supervisors.

10. Staff had no access to their supervisors' recommendations and thus could not verify the calculation of points under the Methodological Approach. The flaws in the UNHCR evaluation system vitiated the system put in place for promotions. The 2007 promotion session lacked transparency, because it was unclear how the situation of staff underfilling a post had been considered. The reply to his appeal gave no indication as to whether the non-weighted criteria had been applied in his case. He had not obtained any minutes of the promotion session establishing that the non-weighted criteria had been taken into consideration in his case.

11. The High Commissioner's decision to promote nine additional people meant that the promotion session was irregular and arbitrary.

**Respondent's observations**



24. The applicant maintains that the Methodological Approach agreed on jointly by the Administration and APPB to determine which staff should be recommended for promotion to the D-1 level could not regularly be applied for the 2007 promotion



recommended for promotion was equal to that of male staff, provided that the women had the required qualifications. Accordingly, the High Commissioner is justified in claiming that the system put in place, whereby equal numbers of women and men would be promoted to the D-1 level in order to achieve gender parity was not in itself unlawful, since it was consistent with another principle enshrined in the Charter of the United Nations, namely merit-based promotion. Nevertheless, in

of being promoted. Therefore, his request for compensation for moral suffering must be rejected.

39. Even though the refusal to grant the applicant a promotion has been declared unlawful owing to a procedural flaw and therefore rescinded, under the Tribunal's statute the judge may not substitute himself for the Administration and give orders to UNHCR on staff promotion procedure. Accordingly, the applicant's request in this regard is rejected.

40. For these reasons, the Tribunal DECIDES:

Article 1: The decision of the High Commissioner not to promote grant the applicant to the D-1 level during the 2007 promotion session is rescinded.

Article 2: If, instead of carrying out the rescission order, UNHCR elects to pay compensation, it must pay the applicant the sum of 9,000 Swiss francs, plus interest at an annual rate of 8 per cent, starting 90 days after notification of this judgment.

Article 3: The applicant's other requests are rejected.

Judge Jean-François Cousin

Dated this 16th day of October 2009

Entered in the Register on this 16th day of October 2009

Víctor Rodríguez, Registrar, UNDT, Geneva