



Case No.: UNDT/GVA/2010/111

Judgment No.: UNDT/2011/172

Date: 6 October 2011

English

Introduction

1. The Applicant contests the decision dated 25 June 2010 not to select him for the P-5 post of Chief of the Documents Control Unit, in the Department of General Assembly and Conference Management (“DGACM”).

2. He claims compensation for the harm resulting from the unlawfulness of that decision.

Facts

3. The Applicant joined the United Nations on 10 January 1986. At the time of the events concerned, he encumbered the P-4 post of Chief of the Printing Section, in the Publishing Service, at the United Nations Office in Geneva.

4. On 30 March 2010, the vacancy announcement for the P-5 post of Chief of the Documents Control Unit, DGACM, was issued on Galaxy, the former online United Nations jobsite, with a deadline of 29 May 2010 for the submission of applications.

5. After submitting an application for this post, the Applicant took a written test on 12 May 2010 and had a telephone interview on 21 May 2010 with a five-member selection and interview panel.

6. In a memorandum of 24 May 2010, which was not sent to the Applicant, the Chief of the Documents Management Section, DGACM, in his capacity as programme manager (in other words, the hiring manager) recommended to the Under-Secretary-General, DGACM, that a candidate other than the Applicant be selected for the post of Chief of the Documents Control Unit.

7. On 15 July 2010

not selected for the post in question but pre-approved to perform similar functions.

9. On the same day, the Applicant received an email informing him that the

Translated from French

f. The programme manager conducted a subjective evaluation. Instead of evaluating the competencies required, he assessed the experience, expertise and “political savviness” of the Applicant, although he had not done so for the two other candidates invited for the written test and the interview, who were both stationed in New York.

Translated from French

applications for job openings advertised before 22 April 2010 through the “Galaxy” system.

18. In this case, the post of Chief of the Documents Control Unit was advertised on 30 March 2010 on Galaxy; ST/AI/2006/3/Rev.1 is therefore applicable to this selection process.

19. In contesting the regularity of the selection process, the Applicant first maintains that, as part of the Galaxy evaluation, the programme manager should have given the three eligible candidates marks for each competency rather than one overall mark.

20. However, ST/AI/2006/3/Rev.1 does not prescribe any particular format for this evaluation and the programme manager was therefore at liberty to give an overall mark to each of the candidates. Moreover, the Applicant cannot claim that this method of marking was harmful to him, since he was invited for a written test and an interview despite the mark that he received.

21. The Applicant claims that the marking of the written test was arbitrary because this test was marked after the telephone interview and no passing mark had been predetermined. However, no provision in ST/AI/2006/3/Rev.1 required the Administration to determine a passing mark or to convene candidates for a telephone interview only after their written tests had been marked.

22. The Applicant also claims that the selection process is irregular because one of the five panel members did not participate in the selection of candidates.

23. ST/AI/2006/3/Rev.1 does not specify or define a selection and interview panel. It simply states, referring to arrangements for evaluating candidates:

7.5 For candidates identified as meeting all or most of the requirements of the post, interviews and/or other appropriate evaluation mechanisms, such as written tests or other assessment techniques, are required. Competency-based interviews must be conducted in all cases of recruitment or promotion.

24. However, once the Administration chooses to follow a procedure, it is bound to comply with it (see Mandol UNDT/2011/013).

25. Contrary to what the Respondent maintains, it is clear from the record that only four of the five members of the panel actually participated in the marking of candidates. While the documents on the selection process indicate that the ex officio panel member “administered” the written test, in his submissions the

Central review bodies

The central review bodies shall review the proposal for filling a vacancy made by the department/office concerned to ensure that candidates were evaluated on the basis of the pre-approved evaluation criteria and/or that the applicable procedures were followed ...

Decision

9.1 The selection decision for posts up to and including at the D-1 level shall be made by the head of department/office when the central review body finds that the evaluation criteria have been

highest mark (15 for the written test and 30 for the interview) to the Applicant and the middle mark (7.5 for the written test and 15 for the interview) to the other two candidates, the Applicant's overall mark would still have been far below that of the two other candidates.

31. Thus, without it being necessary to decide whether the selected candidate had the requisite number of lateral moves to be eligible for promotion to P-5, the Tribunal can only find that the irregular composition of the selection and interview panel had no effect on the decision not to select the Applicant for the litigious post.

32. Since there is no link between the unlawfulness and the alleged harm, the