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**NITED ATIONS DISPUTE RIBUNAL**

Case No.: UNDT/GVA/2014/070

Judgment No.: UNDT/2016/066

Date: 2 June 2016

Original: English

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**pointed out discrepancies between the panel's recorded assessment of the candidates' competencies and its recommendations. Specifically, it noted, by**

abandoned, and that she had decided to correct the course of action in the case and produce a management evaluation letter.

13. The application to the Tribunal was filed on 25 September 2014. MEU transmitted its management evaluation letter on 21 October 2014. The Respondent filed his reply on 31 October 2014.

14. In June 2015, this case, together with a number of other cases filed by the Applicant, was referred to mediation and the proceedings before the Tribunal were suspended for that purpose. However, mediation efforts were unsuccessful and the proceedings before the Tribunal resumed on 2 November 2015.

15. The Tribunal had initially considered that the case could be decided on the papers, and, by Order No. 53 (GVA/2016) of 17 March 2016, invited comments from the parties.

16. On 22 March 2016, the Applicant requested a hearing so that the Hiring

that they were not seeking to ask the witness any questions, the Tribunal decided that it would not be necessary to call this witness.

18. On 1 June 2016, the Applicant made an unsolicited additional filing. Having reviewed it, the Tribunal was of the view that this submission did not make any difference to the determination of the issues in this case and the Tribunal's factual findings.

19. The Applicant's principal contentions are:

a. The post became vacant in December 2011 and was advertised more than 19 months later, when the Hiring Manager was selected as Chief, RTU, UNON. Under General Assembly resolution 51/226, the Vacancy Announcement ("VA") should have been issued within three months (by end March 2012). Had the vacancy been advertised in time, the successful candidate would not have qualified to apply, as he had served as a P-3 Russian Translator with the UN for less than three months and he could not even produce two UN performance evaluation reports. In total, it took 850 days to fill the post, in disregard of the 120-day benchmark established in General Assembly resolution 65/247;

b. The reason for delaying the advertisement of the post was to allow sufficient time for the staff member eventually selected, who had been recently joined RTU, to gain the requisite experience to be eligible for the post. Pending this eventuality, Mr. Oganian granted temporary contracts to personal friends and blocked the Applicant's candidacy. This was to the detriment of the Organization's interest to fill vacancies expeditiously and to achieve the highest standards of efficiency, competence and integrity in recruitment;

c. The wording of the JO in relation to experience was changed to request preferably "some" years of service within the Organization, instead of . . . years, as per the Generic Job Description for similar posts. All

subsequent Russian Reviser vacancies advertised in the UN after the one at issue stated a preference for . . . years of service in the Organization;

d. Para. 5 of the Inspira Hiring Manager's Manual ("Manual") provides that "the Hiring Manager . . . is usually the chair" of the assessment panel.







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**positions of a similar nature and grade require “[a] minimum of five years of experience in translation, précis-writing, self-revision ... of which three preferably should have been with the United Nations”, while th**

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intended for general application may only be established by duly promulgated Secretary-General's bulletins and administrative issuances." It further stated:

At most, the Manual in this appeal provides "guidance" on the "responsibilities" of the Hiring Manager, as envisaged by Section 2.6 of ST/AI/2010/3; it does not purport to vest a staff member with an entitlement to be apprised in advance of an interview of the names of the panel members.

45. Although both the Inspira Applicant's Manual and the Inspira Recruiter's Manual also provide that invitations convoking candidates to an interview inform them of the names of the panel members, they do not have the binding force of properly promulgated Secretary-General's bulletins and administrative issuances. Accordingly, they do not confer on candidates a legal right to be informed of the panel's composition in advance of their interviews.

46. The Tribunal finds, following *A o*, that the omission to inform the Applicant of the assessors' names in advance of his interview was not in breach of the Applicant's rights.

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47. The memorandum of 21 February 2014 requesting the Director, DCS, to proceed with the selection shows that the CRC Secretary, and not the Hiring Manager, forwarded the record of the procedure to the competent head of office for decision. This departed from the clear terms of sec. 9.2 of ST/AI/2010/3 that "[t]he selection decision for positions up to and including at the D-1 level shall be made by the head of department/office on the basis of *p o p o* *pon n n*" (emphasis added) (see also sec. 9.3).

48. As a matter of principle, the careful distribution of roles and responsibilities at different stages of the selection procedure must be respected, since it constitutes a major safeguard. Nonetheless, "not every violation of due process rights will necessarily lead to an award of compensation" ( 2010-UNAT-042). Insofar as the selected candidate alone had been recommended for selection, there is no doubt as to whom the Hiring Manager would have wished to appoint. At that point in the selection exercise, the Applicant could not legally have been selected

because the panel had not recommended him. Consequently, the Hiring Manager's failure to submit his final recommendation had no impact on the Applicant's chances of success.

*on*

49. The Applicant makes a number of submissions relating to other selection procedures, including the previous hiring of the successful candidate on a P-3 position with RTU, UNON, and the temporary recruitment of retirees while the post remained vacant, as well as to certain system-wide practices that might raise systemic issues.

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