
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/089

Judgment No.: UNDT/2019/018

Date: 5 February 2019

Original: English

Before: Judge Agnieszka Klonowiecka-Milart

Registry:

Introduction

1. The Applicant is a

reference checks, which included the Applicant.⁹

12. On 8 June 2018, the RVU informed the Applicant that the educational titles listed in her PHP are not at University degree level and are not accepted as fulfilling the minimum requirement for, or in lieu of, a first-level post-secondary degree.⁹ Dcej gmt a'f gi tgg+hqt'vj g'r wtr qugu'qht getwko gpv'q'vj g'Rt qhguk ppcn'hxgr'Vj g'TXW stated that the Applicant did not meet the minimum educational requirements for the position she encumbered.¹⁰ On 27 June 2018, the Applicant wrote to the RVU disputing its findings. On 29 June 2018, the RVU reiterated that her case had been closed as negative.

13. On 6 July 2018, MINUSMA's Director of Mission Support (DMS) issued the impugned decision whereby the Applicant was notified that her appointment would not be renewed because she did not meet the minimum educational requirements for the position.¹¹ The decision stated that the educational title listed in her PHP was not at a university degree level and that the institution from which it was obtained is not accredited to confer degrees.

14. On 10 July 2018, the Ministry of Higher Education, Research and Innovation, Republic of Senegal, transmitted to MINUSMA a certificate of authenticity of the

in relation to allegations of misconduct against her, namely, the false declaration of degrees listed in her PHP.¹³

Applicant's case

Accreditation of the educational institution

17. The Applicant argues that accreditation is a domestic matter handled by domestic institutions, under the political authority of the Ministry of Education. Internationally, there are institutions and instruments through which States organize the mutual recognition of their accreditation and UNESCO plays a major role in setting common standards. The United Nations Secretariat does not have any authority for accreditation. The rules provide for the Secretariat to rely on the international system in place.

18. Group IPG-ISTI is a higher education institution in Sénégal and the question of its accreditation must therefore be addressed within the domestic mechanism while one must look at its recognition abroad through the international mechanism. In the case at stake, the Ministry of Education of the Member State, Sénégal, has provided evidence as to the accreditation of the school in 1988 and authenticated the degree that the Applicant received from that institution. The only other thing needed was the recognition beyond the domestic framework.

19. To that end, there are two dimensions to consider. First some international instruments

Unfairness

30. Even if the academic qualification does not meet those requirements, the United Nations Secretariat still has a discretion to recognize it as provided in section 6.4 of ST/AI/2018/5 which must be read in conjunction with section 6.5. It should lead to the one-time amnesty available where staff member has already been in the position/job for certain time.

31. The entire process was not conducted diligently. The Applicant was first recruited in the Department of Peacekeeping Operations (DPKO) in January 2012. It took more than six years for the Administration to conduct such a verification leading to this decision. Moreover, the verification started in December 2014 and it took more than two years for the Administration to reach this decision. As she has submitted, her 15+ years of experience within the United Nations and in the same field of information technology associated with the *Brevet* qualify her for the position.

32. Once the verification is done, there is an obligation for the Administration to consult with the Field Personnel Operations Service (FPOS) before making the decision as per section 6.3.4 of the DPKO, SOP on Staff Selection System for Peacekeeping Operations and Special Political Missions. The Applicant is not aware that such consultation took place because in the latest email related to this matter after the application was filed, the Administration stated that it was go1 12 Tf0 g0 G(.)JTJET00.00000912 0 61

is not recognized may result in administrative and/or disciplinary measures, including dismissal, pursuant to staff rule 10.1.

The question of fairness and amnesty

38. Pursuant to section 6.3.1 of the SOP, reference checks must be performed for all external candidates, as well as serving staff members for whom a reference check is required. The Applicant's educational qualifications and employment record as indicated in their application. Under section 6.3.4, where a serving staff member receives a negative reference check in relation to their educational qualifications, the Field Personnel Operations Service Desk Officer (FPOS/DO) should be consulted to determine the best course of action based on the facts of the case.

39. The Applicant requested a one-time amnesty for staff members under section 6 of the AI. Section 6 of ST/AI/2018/5 applies to staff members who requested a review of their degrees under section 4 of ST/AI/2018/5. The Applicant has presented no evidence of having made such a request at all. Besides, she has no degree for the Administration to review; at best, the Applicant possesses a *Brevet*, which the issuing authority has confirmed to be a two-year diploma, not a degree. The Applicant cannot rely on a degree that was not awarded.

40. The Applicant is not eligible for the position. The Applicant had no right to a renewal of her appointment. She has presented no evidence to support a legitimate expectation of renewal. Prior performance appraisals and contract renewals are not sufficient to amount to an express promise by the Organization to renew the Applicant's appointment. Accordingly, the application should be denied.

Considerations

41 It is undisputed that the job opening which the Applicant applied for and for which she was selected required, *inter alia*, a first level university degree with qualifying experience accepted in lieu of an advanced university degree.

42. In this regard, Ugevkqp"506"qh"vj g"Wpkgf "P cvkqpu"4237"Cr r rkecpvu"O cpwn" Instructional Manual for the Applicant on the Staff Selection System (Inspira) states vj cv"vj g"ögf vecvional requirements indicated in job openings reflect the minimum qti cpk cvkqpcn"ucpf ctf "tgs wktgo gpw"lqt"ci kxgp"lqd"cpf "vkrgö"cpf "vj cv"cp"

Applicant for positions in the Professional and higher level positions is normally required to have an advanced university degree (Masters degree or equivalent). Applicants with a first level university degree combined with additional qualifying experience (earned after receipt of degree) are also considered to have met the educational requirements equivalent to a Masters. A first level university degree may not be substituted by relevant experience.

43. Ugevkqp"404"qh"UVIC K423: 17"uwr wrcygu"vj cv"ci"ötgeqi pk gf "f gi tggö"ku"qpg"vj cv" that was accredited at the time of its issuance by the competent authority in the country in the issuing institution is based. Sections 3.2 and 3.3 stipulate that

3.2 To confirm whether an institution or a degree is accredited, staff members may refer to the World Higher Education Database compiled by the International Association of Universities (IAU). The IAU list reflects institution and degree accreditation at the time of publication, a degree and/or institution may not be listed in the most recent publication of the IAU list. In this case, staff members may also refer to prior publications of the IAU list.

3.3 Listing a degree as defined in section 3.1 (a) to (d) or misrepresentation of receipt of a degree may result in administrative and/or disciplinary measures, including dismissal, pursuant to staff rule 10.1.

44. In the prugp"ecug."vj g"f gekukp"pqv"vq"tgpgy "vj g"Cr r rkecpvu"hzgf-term appointment, as conveyed to her in the 6 July 2018 memorandum from the MINUSMA/DMS, is premised on the fact that the educational title listed in her PHP is

Judgment

54. The application is accordingly dismissed.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 5th day of February 2019

Entered in the Register on this this 5th day of February 2019

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi