with the Dispute Tribunal ended and, on 1 July 2019, the present case was assigned to the undersigned Judge. The Respondent filed the evidence referred to by the Appeals Tribunal and some additional evidence, upon the request

fully and fairly considered for the Post but no more details were provided. The Applicant contended in his appeal that, Contrary to its statement in the recitation of the facts, [the Applicant] did contest the facts as presented by the Secretary-General insofar as he contested the failure to produce the twenty-five [situational judgment, STJ ] questions, despite being ordered by the [the Dispute Tribunal] to do so. [The Dispute Tribunal] further erred by including in its recitation of the facts a reference to the production of this evidence, which was never produced before [the Dispute Tribunal] .

7. In the subsequent considerations of *Chhikara* 2017-UNAT-792, the Appeals Tribunal endorsed the following factual findings made by the Dispute Tribunal when stating that (see para. 39):

> As found by [the Dispute Tribunal], the written test contained two parts: part 1 consisted of 25 STJ questions[l7(a)4-9( )-p[(a)4(rt )-28(1 )-39(c)4nal

7.

fair consideration. The Tribunal, however, finds that while the process indeed appears

standards to be expected from such exercise for which reason the Applicant s candidacy for the Post did not receive a full and fair consideration.

*Relief*

Compensation for damages under art. 10.5(b) of the Dispute Tribunal s Statute

32. The present case has been pending since June 2016 and concerns a selection decision2 reW*nBT/F1 12 Tf1 0 0 1 182.18 555.22 Tm0 G[(e)4(nt)] TJ 12 Tf1 0 0 1 1044 5534.58 Tm0 G

34. Both parties agree that the Applicant should be awarded compensation for his income loss on the basis of the principle of loss of chance, which the Appeals Tribunal has consistently endorsed as a method to calculate such a pecuniary loss in non-selection and/or non-promotion cases. While the Applicant submits that he should be awarded two years of net-base salary, the Respondent contends that he should be awarded one-sixth of the difference between a P-5 and a D-1 level salary for a maximum of two years.

35. The Tribunal agrees with the parties that the notion of loss of chance applies to the present case. When being excluded from the interviews, the Applicant was inappropriately deprived of a chance to be further considered for the Post and therefore suffered a potential income loss.

36. Regarding the qu Tm0 g0 G[( )] TJETQ0.00000912 0 612 792 reW*nBT/F14]Ti7 428.35 Tm0 g0 G



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37. In the present case, the Tribunal notes that 12 job candidates participated in the written test, and out of 6 candidates that were subsequently invited to the interviews, 2 candidates were considered suitable consequently, 4 candidates were regarded as not suitable after the interviews. That would indicate that had the written test been properly administered a maximum of 8 job candidates could potentially have been suitable for selection. t

that Counsel was not provided with the correct information). Basically, such action puts the entire integrity of the judicial system at risk it may not only lead to undue and costly delays, but also lead to straightforwardly incorrect decisions. However, the fact that the Respondent in this case, albeit extremely late in the process, admits to, at least some of, the irregularities, is a mitigating factor, which the Tribunal must take into account when determining a possible amount for the abuse.

47. The Tribunal notes that the Respondent in his reply of 29 August 2016 stated that:

but-36-21(a)4(lsor)] TJETQ0.00000912 0 612 792 reW*nBT/F1 12 Tf1 0 0 1 152.12 505.12 Tm0 g0 Gmthi

a. The same grading scheme of a passing score of 60 out of 100 was applied to all applicants. All other applicants who did not earn a passing score were also screened out from further assessment ; and

b. [The] ETS/OHRM did not release the names of the job applicants to the hiring manager until after

identified in the present Judgment or that the decision was taken in bad faith as the Applicant has otherwise submitted, but which the Tribunal has found was not fully substantiated) and the possible amount of the compensation. Had the Respondent provided the Dispute Tribunal with the correct information from the outset of the case, this would undoubtedly have saved the internal justice system much energy and resources and also relieved the Applicant from having to go through a protracted and troublesome judicial process. Instead, before the Respondent provided the Dispute Tribunal with the correct facts and admitted some of the wrongdoings, the case went through the Dispute Tribunal to the Appeals Tribunal and back on remand to the Dispute Tribunal a case that took this Tribunal less than 4 months to decide after receiving the correct information has been pending for almost 27 months. That the Respondent also understands that the information is decisive to the case follows from the fact that he now admits, at least in part, his liability. The Tribunal, however, notes that the Respondent has not provided any explanation as to why such wrong and misleading information was provided so late in the process, and that the Administration clearly had all this information at its disposal from the moment when the application was filed.

50. In other cases of delays, the Tribunal notes that although in t