
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2016/033
Order No.: 113 (GVA/2016)
Date: 31 May 2016
Original: English

Before: **Judge Thomas Laker**

Registry: **Geneva**

Registrar: **René M. Vargas M.**

FARRIMOND

v.

**SECRETARY-GENERAL
OF THE UNITED NATIONS**

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Jérôme Blanchard, UNOG

combinations. There were then discussions between the Human Resources Management Section and the hiring manager as to whether or not the recommended list should be endorsed by the Central Review Body, given that a competency-based interview was held but that the recommendation list contained only rostered candidates.

7. On 13 May 2016, the Director-General, UNOG, selected the candidate proposed for selection.

8. By email of 13 May 2016, the successful candidate was requested to confirm her continued availability and interest for the position. She so confirmed by email of the same day.

9. By email of 14 May 2016, the Applicant was informed that “a candidate ha[d] been selected for [the contested position] from a roster of pre-approved candidates, and [that] as a result [the] Job Opening ha[d] been closed”.

10. On 24 May 2016, the Applicant submitted a request for management evaluation of the decision not to select her for the contested position. She received a standard acknowledgment letter the next day, but no substantive answer.

11. On 26 May 2016, a Personal Action was raised and approved in order to reflect the fact that the successful candidate will be promoted as of 1 June 2016. The successful candidate was notified of the same on 27 May 2016.

- b. From that time, the Applicant was denied the opportunity to be promoted, and to demonstrate her professional skills or have them fully recognised;
- c. The procedure for the competency-based interview was flawed and the panel was not objective and impartial as:
- i. The panel was composed of only three members, whereas the practice in the IS is to constitute panels of five;
 - ii. The “ratings to be used” were not specified, as required by sec. 9.3.4(d) of the Manual for the Recruiter on the Staff Selection System (Inspira) (“Recruiter’s Manual”);
 - iii. One panel member participated by videoconference, without this being mentioned in the invitation for the interview, and interaction with this panel member was hindered by the seating arrangements and distractions;
 - iv. The hiring manager’s administrative assistant was present during the interview, although not announced and contrary to the usual practice;
 - v. The hiring manager held undue influence over the majority of the panel members given that he was “expected to hold considerable sway” over another selection process in which one of the two other panel member was a candidate;
 - vi. One panel member had a conflict of interest as she assessed the Applicant’s performance in Spanish a month earlier, which was likely to impact on her assessment of the Applicant’s candidacy for the contested position; previous assurances had been given to the Applicant that those who would assess her level of Spanish would not sit on the assessment panel in respect of her candidacy for the

d. The selection process was delayed to incorporate an e-PAS manipulated to the Applicant's detriment.

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e. The decision will be implemented "in the near future, presumably on 1 June 2016";

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f. The contested decision and the underlying hiring manager's personal animus y

Consideration

14. Art. 2.2 of the Tribunal's Statute provides that the Tribunal shall be competent to suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision appears *pr* to be unlawful, in case of particular urgency, and where its implementation

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- b. **Duration of each assessment - indicates the expected duration of the whole exercise and request that each assessor set aside the adequate timeframe;**
- c. *o t on o t ss ss nt n t s t o t on
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- e. **Reconfirm the applicant's continued interest to be considered for the position.**

31. **Sec. 9.6 of the Recruiter's Manual entitled "Advising on Communicating with Applicants about the Interview" provides, in turn that:**

- 1. **Applicants convoked for interviews are normally notified at least five working days in advance. The invitation includes the date, time and means of the interview (telephone, video conference, face-to-face) and also informs the applicant of the names of the assessors.**
- 2. **At the beginning of the interview, the chairperson should state which competencies will be addressed and informs the applicant that the session will last from 30 to 60 minutes. The invitation includes a reference to the position and the date, time and means (eg, in person, by telephone or by video conference) of where and how the interview will be held as well as the name, functional title and department/office/mission of each assessor.**

32. **This last provision is repeated at sec. 10.2 of the Applicant's Manual, which makes no reference to the provision of a scoring/rating sheet.**

33. **There is no requirement in the aforementioned provisions that all panel members be physically present during the interview, nor that the remote participation of one of them be announced in advance to the candidates. As to the scoring/ratings to be used, sec. 9.3.4.d of the Recruiter's Manual suggests that it**

34. Even if the Applicant were to have been provided with the scoring/ratings for the assessment during the interview, there is no reason to believe that failure to provide her with this information has caused her prejudice. Knowing the rating scale was unlikely to affect her performance during the interview, and the Tribunal notes that there is no evidence that the Applicant requested such information prior to the interview. As long as all the candidat

