

Case No.: UNDT/NBI/2009/075

Order No.: UNDT/NBI/O/2010/017

the advise of a Human Resources Assistant in HRMS, who advised her that the defect could be rectified.

6. On 6 October, HRMS forwarded a list of 332 applications for the post to [the] Chief of ICTS/UNON. At a meeting on 7 October 2009, [the Chief] informed the Applicant that her name was not on that list. On 12 October 2009, HRMS forwarded a hard copy of the Applicant's application to the post to ICTS for consideration. The Applicant was informed as much.

7. On 2 November 2009, the Applicant was invited to interview for the postf1043n hTj0.00031

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26. The Respondent maintains that the Applicant was well aware that the post she encumbered was a temporary post, the existence of which was contingent upon the post of Administrative Assistant in the front office of the Chief of ICTS. The testimony of the Applicant and documentary evidence submitted by her, coupled with the testimony of the Respondent's own witness shows that the position espoused by the Respondent is not in fact true.

27. The Respondent's witness contradicted herself in respect of the post encumbered by the Applicant, which contradiction became clear when challenged on cross-examination. In examination-in-chief and at the start of cross examination, the witness maintained that the Applicant was clearly informed that the temporary position she was being recruited to was that of an administrative assistant and entirely unconnected to that for which she was interviewed and recommended. When confronted with the email she wrote to the Applicant, the witness admitted that her testimony is not borne out by the facts. The Applicant's initial letter of appointment corroborates her testimony as to the post she was recruited to and encumbered up until the time she returned from maternity leave.

28. As the Applicant's immediate s

provisions of ST/AI/2005/2 for the purposes of

33. Having heard the submissions of the Parties on the issue, I upheld the objection on grounds that it would be inappropriate to receive testimony with regard to an interview process which is ongoing. As the interview process was not itself an issue for the purposes of the suspension of action application, I was not persuaded as to the direct relevance of the evidence to the live issues before me.

34. I am of the firm view that there was an unfortunate manipulation going on within the ICTS, a patent lack of transparency in the recruitment to the position to which the Applicant had applied which tended to breed such rumours that can only do harm in the work-place. This situation ought to have been properly and effectively addressed by the Chief and the Deputy Chief of the section.

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35. On the basis of the facts placed before me, I am persuaded that there were countervailing factors at play in the decision not to renew the Applicant. I find on this score that a prima facie case of unlawfulness on the part of the Respondent is established.

Urgency

36. The Respondent concedes that the Application satisfied the requirement of uC /P r68.22368 344.2

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