



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2010/075
Order No.: 115 (NY/2013)
Date: 25 April 2013
Original: English

Before: Judge Alessandra Greceanu

Introduction

1. On 7 June 2010, the Applicant submitted an application in which he alleged that his candidature for a P-4 level post in the Department of Peacekeeping Operations was not given full, fair and timely consideration.
2. The Respondent's reply to the app

Consideration

6. By motion dated 3 January 2012, the Applicant requests that his application in the present case be reinstated and therefore, in effect, also that the case be reopened even though it was closed by Order No. 31 (NY/2012).

7. In support of his motion the Applicant submits, *inter alia*, that:

a. “[A] senior official at the Secretariat” has informed him that his “candidature [would] never get full and fair consideration as [he has been] identified as a ‘trouble maker’ and no manager would want to hire [him]”;

b. “Whereas [he has] always suspected as much, to actually hear the same from a fairly senior management official was troubling”;

c. “This statement [is] corroborated [by] the negative results of the many recent applications and the statement made to [him] by the Director of the Procurement Division some time ago that [the Applicant has] found [himself] in a deep hole (challenging management’s selection decisions) and [he] should stop digging in order to be free (words to that effect)”;

d. “Further to the information already shared with the Tribunal in [his] pleadings in this case, it has become clear that the decision taken by [the Programme Case Officer] in this case was void of reason and therefore part of the abuse of authority in failing to give full and fair consideration to

expressly provides for the re-instatement of a matter on motion and requires

the time the judgment was rendered. From the Applicant's motion for reinstatement appears that he does not submit that any such new decisive fact was unknown to him. Rather, in addition to him allegedly being labeled as a "troublemaker", which he already suspected when he filed his motion for withdrawal (see para. 7(b) above), it appears that his motion was motivated by the recent judgments in *Finniss* UNDT/2012/200 and *Obdeijn* 2012-UNAT-201. In this regard, the Tribunal notes that, in *Eid* 2012-UNAT-145, the Appeals Tribunal stated that a change in jurisprudence is an issue of law and not of fact and does not provide a ground for revising a previously rendered judgment (paras. 1 and 18). In line herewith, in his motion for reinstatement, the Applicant states that "[t]his Motion is submitted in the absence of any specific provision in the Statute of [the Dispute Tribunal] and

14. This Tribunal affirms the findings of *Sheykhiyani* adding that, for the withdrawal to be valid, it must also be made in relation to a specific case and at the free will of an applicant. The Tribunal observes that, in the present case, with reference to Case No. UNDT/NY/2010/075 and entirely at his own initiative by