
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2014/012
Order No.: 43 (NY/2014)
Date: 18 March 2014
Original: English

Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

LI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON

Introduction

1. On 12 March 2014, the Applicant, a P-5 level Chief, Transport Facilitation and Logistics Section, Transport Division, Economic and Social Commission for Asia and the Pacific in Thailand filed an application for suspension of action, pending management evaluation, of a job opening advertising the position of Chief at the D-1 level in the Transport Division, ESCAP. The Applicant contends *inter-alia*, that the job opening does not adequately follow the generic job profile and covers less than one third of the actual functions of the post, and that it has been prepared in order to favour a particular potential candidate.

2. The Registry transmitted the application to the Respondent on 13 March 2014. The Respondent duly filed his reply on 14 March 2014, requesting that the application be dismissed on grounds, *inter alia*, that the management evaluation is no longer pending.

Brief Background

3. On 28 February 2014, the position of Chief at the D-1 level in the Transport Division, ESCAP was advertised under the job opening number 14-ECO-ESCAP-33661-R-BANGKOK(G) with a deadline of 29 April 2014.

4. On 12 March 2014, the Applicant submitted his request for management evaluation. The Respondent stated that if what [he is] reporting is true, the job opening should be revised before re-posting and the current incumbent of the post should be excluded.

Applicant's contentions

5. With respect to the requirement of *prima facie* unlawfulness under art. 2.2 of the Statute, the Applicant submits that the job opening contravenes art. 4.5 of the administrative instruction ST/AI/2010/3 on staff selection system in that it does not adequately follow the generic job profile approved by the Office of Human Resources Management. The Applicant explains that the job opening omits substantive functions inherent to the post, thereby tailoring it to favor a potential candidate whose current functions are largely reflected in the job opening. Further the job opening departs from previous ones pertaining to the same position in many res

Respondent's contentions

8. The Respondent contends that the management evaluation was completed on 13 March 2014, and, therefore, there is no longer any basis for the Applicant's request for suspension of action, and no scope for any order suspending the alleged decision pursuant to Article 2.2 of the Statute. Accordingly, the application should be rejected.

Consideration

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2. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested

12. In this case, the Management Evaluation Unit (MEU) completed its review of the request for management evaluation on 13 March 2014 and concluded that it was not receivable. The MEU found that since the Applicant did not apply for the post, the job opening had no direct