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Case No.: UNDT/GVA/2010/004

Judgment No.: UNDT/2010/181

Date: 14 October 2010

English





had adopted the new methodology. Furthermore, the methodology was communicated to staff members five days before the 2008 promotion session;

c. The criteria for obtaining a promotion change every year, making it difficult for staff members to plan their career. At the 2008 promotion session, the main criterion for promotion was performance. However, this criterion is not objective as it is dependent on each supervisor. Furthermore, the performance appraisal system is discredited;

d. A de facto gender quota was applied during the 2008 promotion session and several women were promoted although they had fewer points than him;

e. The APPB recommended 20 candidates for promotion to the P-5 level, amongst which 10 women, which represents 50

- i. Mistakes were made in the calculation of the points required to establish the groups. Some of these mistakes were admitted by DHRM while others were not. Thus, he should have received maximum points (7) for rotation as he counts nine assignments in different locations. In addition, he should have received 53 points for performance. Lastly, the APPB should have considered the recommendation of his supervisor for 2005 and not taken into account the absence of a recommendation in 2006. Thus, he should have been granted a total of 84 points and been placed in the first group;
- j. In the event that only the assignments for a period

n. At the promN

m







those decisions is limited to assessing the regularity of the procedure followed to take the decision and the factual errors in the review of the staff member's career.

18. By letter dated 8 September 2010, the Tribunal informed the parties that it intended to raise on its own motion the issue of the legality of the 2008 promotion session: indeed, contrary to paragraph 11 of the APPB Rules of Procedure and paragraphs 140 and 144 of the Procedural Guidelines, published in 2003, that provide that the annual promotion session takes place in October and that staff seniority is calculated up to that date, the High Commissioner accepted the proposal of the Joint Advisory Committee to fix 31 December 2008 as the cut-off date to determine the seniority and the eligibility of staff members at the 2008 session.

19. It is therefore important to ascertain whether the High Commissioner was in a position to modify the APPB Rules of Procedure and Procedural Guidelines.

introduced by the High Commissioner in 2003, after consultation of the Joint Advisory Committee. Hence, another legal text adopted by the High





for the Tribunal to substitute its own appreciation of the merits of staff members with either that of the APPB or of the High Commissioner.

33. Lastly, it is alleged by the Applicant that the APPB made a number of mistakes in the calculation of the points he should have been awarded by application of the methodology. With regard to his performance appraisals, the Applicant was awarded 40 points for two superior appraisals for 2007 and 2008 and a fully effective appraisal for 2005, in line with the 2008 promotions methodology, since no appraisal had been carried out for 2006. Thus, no mistake

Entered in the Register on this 14<sup>th</sup> day of October 2010

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Víctor Rodríguez, Registrar, UNDT, Geneva