



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2014/106

Judgment No. UNDT/2015/030

Date: 1 April 2015

Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye Berko

HUMACKIC

v.

SECRETARY GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:
Edwin Nhliziyo

Counsel for the Respondent:
Stephen Margetts, ALS/OHRM
Alister Cumming, ALS/OHRM

Introduction

1. The Applicant serves as an Administrative Assistant at the United Nations Interim Force in Lebanon (UNIFIL) at the FS-5 level. On 8 November 2014, he filed an Application contesting a decision made on 25 April 2014 not to select her for the Temporary Job Opening (TJO) Contracts Management Assistant at the FS-5 level advertised as TJO/2014/011.
2. The Respondent filed a Reply on 26 December 2014 in which he asserted that the Application is without merit and is not receivable *rationae temporae*.
3. The Tribunal, in accordance with art 9 of the Tribunal's Rules of Procedure has determined that an oral hearing is not required in determining the preliminary issue of receivability and will rely on the Parties' pleadings and written submissions.

Procedure

4. On 4 February 2015, by Order No. 046 (NBI/2015), the Applicant was directed to file his submissions in response to the issue of receivability by March 2015.
5. The Applicant filed the said submissions on 3 March 2015.

Facts

6. On 21 March 2014, the temporary position of Contracts Management Assistant was advertised under TJO/2014/011 with a closing date of 28 March 2014.
7. The Applicant applied for the position on 28 March 2014.
8. A two-member interview panel was convened to assess the candidates comprising of the Hiring Manager, a female staff member external to the work unit where the job opening was located and a staff member from Human Resources who served as an *ex officio* member of the panel.

9. The Applicant and seven other staff members applied for the position, took written tests and undertook competency based interviews.
10. On 28 April 2014 the Hiring Manager transmitted the selection memorandum to the Chief Human Resources Officer recommending that the staff member who scored the highest on the written test be selected for the position.
11. On 27 June 2014 the selected candidate declined the position. Another candidate was offered the position but, on 18 July 2014, also declined the offer.
12. Following the second candidate's decision to decline the position, UNIFIL management decided that the position would be filled from the roster by a staff member appointed on a longer basis and that the recruitment would take place from January 2015.
13. By letters dated 26 and 28 May 2014, 12 June 2014 and 25 June 2014 the Applicant requested management evaluation of the decision concerning her non selection for the position of Contracts Management Assistant (FS-5), TJO/2014/011 to assess the transparency of the selection process and to assess if events she had described in her request for management evaluation had affected her opportunity for career development.
14. On 27 June 2014, the Applicant received an email from the Management Evaluation Unit (MEU) with a letter attached in reference to her management evaluation request (MER). The letter advised the Applicant on the applicable deadlines for submission of her case to the Dispute Tribunal as follows:

Please also note that, pursuant to Staff Rule 11.2 (d), the management evaluation in your case is to be completed within 45 days of receipt of your request, or no later than August 2014. If there is any delay in completing the management evaluation, the MEU will contact you to so advise. In any event, please be advised that, pursuant to Staff Rule 11.4 (a) the 90 day deadline for filing an application to the UNDT, should you wish to do so, will start run from 9 August 2014, or the date on which the management evaluation was completed, earlier, unless the deadline has been extended by the Secretary General to facilitate efforts for informal resolution under the auspices of the Office of the Ombudsman.

writing to the staff member within 30 calendar days of receipt of the request for management evaluation, if the staff member is stationed in New York, and within 45 calendar days of receipt of the request for management evaluation, if the staff member is stationed outside of New York. The deadline may be extended by the Secretary.

JUDGMENT

35. In view of the foregoing, the Tribunal decides that this Application is receivable.

(Signed)

Judge Nkemdilim Izuako

Dated this 1st day of April 2015

Entered in the Register on this 1st day of April 2015

(Signed)

Abena KwakyeBerko, Registrar, Nairobi