



JUDGE SOPHIA ADINYIRA,

Facts and Procedure

7. Mr. Majbri joined the United Nations in March 1981 and, since 2000, has held the post of Senior Reviser, P-5, ATS, Department of General Assembly and Conference Management (DGACM). In 2004, following the retirement of the Chief of ATS, Mr. Majbri and two other ATS staff members applied for the post of Chief of ATS. Mr. Majbri, as well as one other staff member, were not selected for the post and were added to the roster.

8. On 4 August 2005, Mr. Majbri requested a rebuttal of his 2004–2005 e-PAS as a result of the actions of the Chief of ATS whose comments and notes he considered were tainted with impropriety.

9. On 16 November 2005, a vacancy announcement was published in anticipation of the Chief of ATS' 1 April 2006 retirement. Mr. Majbri applied for the post and was short-listed for an interview along with four other applicants. Following the retirement of the Chief of ATS, and pending the permanent appointment of the new Chief, one of Mr. Majbri's colleagues was appointed as Officer-in-Charge (OiC) of ATS. Following the 23 May 2006 recommendation of the Interview Panel, the PCO submitted his recommendation for the permanent appointment to the position of Chief of ATS to the Under Secretary-General (USG) for DGACM.

10. Around that time, as a result of Mr. Majbri's submission of a complaint with the Office of Internal Oversight Services (OIOS) alleging harassment and favouritism by the Chief of ATS, and also following up on a 29 April 2005 complaint filed with the Office of the Ombudsman, the selection of the permanent replacement for the departing Chief of ATS was delayed pending further investigation by a three-person fact-finding panel.

11. On 12 October 2006, the fact-finding panel released its report in which it concluded that Mr. Majbri had been "treated unfairly" as a result of "a conflict of personalities and agendas" though his actions were not those of "a hapless victim". On 6 November 2006, the Rebuttal Panel issued its report in which it concluded that as a result of improper motives by the graders, Mr. Majbri's 2004–2005 e-PAS should be set aside and his rating should be upgraded.

12. On 24 November 2006, the USG requested that the Interview Panel, in light of the Investigation and Rebuttal Panels' findings, review their assessment of the candidates for the post of Chief of ATS. On 6 December 2006, the Interview Panel issued a special report in

which it concluded that the findings of the two panels “did not cont

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2012-UNAT-200

28. The Secretary-General requests that the Appeals Tribunal dismiss Mr. Majbri's appeal in its entirety.

Considerations

29. Mr. Majbri contests the findings of the UNDT that he was afforded full and fair consideration for the position of Chief of ATS and the rejection of his claim that he suffered unfair and discriminatory treatment.

30. All the candidates that appear before an interview panel have the right to full and fair consideration. A candidate challenging the denial of a promotion must prove through a preponderance of the evidence any of these grounds: that the interview and selection procedures were violated; that the members of the panel were biased; that the panel discriminated against an interviewee; that relevant material was ignored or that irrelevant material was considered; and potentially other grounds depending on the facts of each case.

31. Mr. Majbri submits that the Interview Panel failed to take into consideration the investigation and rebuttal reports as well as the discriminatory treatment he was subjected to in ATS.

32. Mr. Majbri questions the decision by the UNDT to limit its analysis to the interview process. He submits that the rebuttal report confirmed a pattern of discriminatory treatment that denied him proper professional development and a proper e-PAS for the period that immediately preceded the selection process, rendering his full and fair consideration for the post of Chief of ATS impossible.

33. The Secretary-General submits that the UNDT did not err in its Judgment as the Special Report issued by the Interview Panel clearly explained that Mr. Majbri, as a rostered candidate, was assumed to fully meet all the requirements for the post and that like all the other candidates he was assessed on his responses and personal qualities.

34. Furthermore, there is evidence that the Interview Panel reviewed both the investigation and the rebuttal reports and found that the issues addressed in those reports did not affect the outcome of the selection process.

T

