



1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Lestrade Charles against Judgment No. UNDT/2012/024, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York on 14 February 2012 in the case of Charles vSecretary-General of the United Nations.

Facts and Procedure

2. Mr. Charles, a P-3 level staff member in the Procurement Division, Office of Central Support Service, Department of Management, in New York, applied for the generic P-4 level position of Board of Inquiry Officer, Field Personnel Division, Department of Field Support,

irregularity with no evidence at all to support such allegations”, and recalled that “[t]he Tribunal discourages such unnecessary litigation”.

10. Mr. Charles appealed the UNDT Judgment to this Tribunal on 27 March 2012, and the Secretary-General answered on 22 May 2012. On 15 February 2013, Mr. Charles filed a motion for disclosure of a document, which was granted by the Appeals Tribunal on 12 March 2013. The Secretary-General provided the document on 14 March 2013.

Submissions

Mr. Charles’ Appeal

11. Mr. Charles submits that the Dispute Tribunal erred on material questions of fact, which resulted in a manifestly erroneous and unreasonable decision.

12. He further submits that the UNDT erred on several questions of law, significantly undermining the integrity and fairness of the process. He contends that the Organization has flouted its own policy of a mandatory requirement that expert panel members undergo training in competency-based interviewing, resulting in a significantly flawed administrative decision which has deprived him of his chance of career advancement.

13. Mr. Charles asks the Appeals Tribunal to find that his candidature was not given full and fair consideration and that his contractual and due process rights were violated. He seeks “reasonable compensation for the damage caused to his career advancement opportunity and for the moral and emotional harm caused as a consequence of the violation of his rights”.

Secretary-General’s Answer

14. The Secretary-General asserts that Mr. Charles has established no factual, legal or procedural errors on the part of the Dispute Tribunal that would warrant reversal of the UNDT Judgment.

15. On the substance of the case the Secretary-General submits that the UNDT correctly concluded that Mr. Charles’ candidature was given full and fair consideration and that he has established no errors warranting reversal of the Dispute Tribunal’s conclusion as to the propriety of the interview.

16. The Secretary-General further submits that the UNDT was correct in not awarding compensation to Mr. Charles, who suffered no harm as a result of any alleged breach.

17. The Secretary-General requests the Appeals Tribunal to affirm the Judgment of the UNDT, and to dismiss the appeal in its entirety.

Considerations

18. Mr. Charles, pursuant to Article 2(1) of the Statute of the Appeals Tribunal, appeals on grounds that the UNDT erred on material questions of fact and law.

19. Both grounds of appeal stem out of the finding of the UNDT that there is no requirement in any of the regulations of the Organization for all expert panel members to undergo training in competency-based interviewing.

20. Mr. Charles submits that the requirement for expert panel members to undergo training in competency-based interviewing is a policy of the Organization and is stated in several official documents. He contends that the fact that the panel of experts did not undergo the mandatory training in competency-based interviewing techniques is a violation of the instructions of the Secretary-General and that this establishes his claim that his assessment was improper.

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set forth on the OHRM website, in alleging that the expert panel was not properly trained. Mr. Charles submits further that whether or not this was expressly provided for, the spirit and intent of the Organization's human resources framework suggests that a panel is

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2013-UNAT-286

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Original and Authoritative Version: English

Dated this 28th day of March 2013 in New York, United States.

(Signed)

Judge Adinyira, Presiding

(Signed)

Judge Faherty

(Signed)

Judge Chapman

Entered in the Register on this 24th day of May 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar