

Introduction

1. The Applicant contests the decision to deny her claim for the National Professional Staff (NP) position at the UN, - "e.e" in the C.#" Affairs /e\$tion (CA) of the United Nations Peacekeeping 10%e in C2!%us (UN13C4P*+5 ad.e#t#sed t %oug Jo& ' !en#ng (J' *+ 6/2017 (t e Post#on*+5 and t e#fo#e5 to e8\$"ude #m f%om t e %e\$%u#tment !%o\$ess.

2. -2 9a2 of %emed#es5 e %e: uests;

a. <#s %eass#ngment to a !os#t#on #n a Un#ted Nat#ons off#\$e of #s \$ o#\$e (#n a fam#"2 dut2 stat#on+5 #n t e P%ofess#ona" \$atego%2 and #n t e o\$\$u!at#ona" g%ou!s of C#.#" Affa#s5 Po"#t#\$a" Affa#s o% 3nfo%mat#on Ana"2st=

&. 1#nan\$a" \$om!ensat#on fo% mo#a" damages5 %e!utat#on and #nteg#t2 damages5 as 9e"" as fo% t e)de"#&e%ate attem!t to !%e.ent > #s? \$a%ee% de.e"o!ment*=-

\$. D#s\$#!"#na%2 a\$#on aga#nst t ose %es!ons#&"e fo% a\$#ons \$onst#tut#ng)m#s\$ondu\$5 a&use of aut o%#t2 and m#smanagement*.

Preliminary Matters

7. The Respondent admitted that although on the merits 9as not ne\$essa%25 9 e#eas t e A!!"\$ant %e: uested a %ea#ng. The !a#t

5. At the Tribunal's request the respondent produced ex parte the report of an investigation conducted on alleged irregularities in the expenditure of the Position. After the hearing the Tribunal considered that the information added to the material under examination in the present case. In addition the investigation report sets out a finding that the respondent and no manager was seen to be involved in the findings. The reasons for the report was not satisfied that the Tribunal's findings were not taken into account.

6. The Tribunal produced additional documents at various stages of the proceedings. The respondent was given an opportunity to comment on the contents. In this regard submissions to the Tribunal produced the information from managers in UN13C4P9 which are alleged to be the respondent's information. The Tribunal notes that these reports were not produced in the Tribunal's proceedings. The Tribunal notes that the respondent's information was not produced in the Tribunal's proceedings. The Tribunal notes that the respondent's information was not produced in the Tribunal's proceedings. The Tribunal notes that the respondent's information was not produced in the Tribunal's proceedings.

Facts

E. The following amount of funds was based on funds and evidence adduced at the hearing and on documents. Evidence submitted to the Tribunal was - 3.66578(4347() - 69885.809466.

10. F. C&O% /en#o% Po"t#\$a" Ad.#se%5 UN13C4P5 at t e %e".ant t#me5 9#t

15. F. C&o% test#f#ed t at #n %es!onse to t e a&o.e5 e to"d t e CCP ' t at #n "#g t of t e g%eat #nte%est #n t e t9o !osts among "o\$a" staff5 #t 9ou"d &e a !#t2 not to g#.e an2 of t em a \$ an\$e to \$om!ete. <e t e%efo%e as0ed t e CCP ' to a.e anote% "oo0 at t e "#st to see #f at "east one G%ee0,C2!%#ot and one Tu%0s , C2!%#ot "o\$a" staff mem&e% \$ou"d &e #n\$"uded5 and ment#oned t e A!!"#\$ant as one of t9o good #nte%na" \$and#dates. <e fu%t e% to"d t e T%#&una" t at e ad 9o%0ed 9#t t e A!!"#\$ant a g%eat dea"5 One9 e ad a un#.e%st2 deg%ee and t oug t e \$ou"d !e%fo%m 9e"" #n t e Pos#t#on. 1#na""25 e \$onf#%med not to a.e \$ e\$0ed t e A!!"#\$antCs P<P o% ana"2se #s 9o%0 e8!e%#en\$e aga#

25. It is also a matter of fact that Mr. Gaddouma stated that the 2015 Guidelines for Determination of Level and Step on Recruitment to the Professional Category and Above issued by the United Nations Human Resources Management Board in 2015 were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015. Mr. Gaddouma stated that the 2015 Guidelines were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015.

26. Mr. Gaddouma stated that the 2015 Guidelines were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015. Mr. Gaddouma stated that the 2015 Guidelines were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015.

27. Mr. Gaddouma stated that the 2015 Guidelines were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015. Mr. Gaddouma stated that the 2015 Guidelines were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015.

28. Mr. Gaddouma stated that the 2015 Guidelines were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015. Mr. Gaddouma stated that the 2015 Guidelines were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015.

29. Mr. Gaddouma stated that the 2015 Guidelines were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015. Mr. Gaddouma stated that the 2015 Guidelines were used for the promotion of Mr. Gaddouma to the position of Senior Professional Officer in the Professional Category in 2015.

76. The Applicant gave evidence concerning his professional activities at the end of 2009 and at the beginning of 2010. He stated that he had been employed by the Applicant as a Press Attaché in Bern from 2009 to 2010. He stated that he had been employed by the Applicant as a Press Attaché in Bern from 2009 to 2010.

77. The Applicant stated that he had been employed by the Applicant as a Press Attaché in Bern from 2009 to 2010. He stated that he had been employed by the Applicant as a Press Attaché in Bern from 2009 to 2010. He stated that he had been employed by the Applicant as a Press Attaché in Bern from 2009 to 2010.

\$. D#d t e A!!"#Sant a.e a "eg#t#mate e8!e\$stat#on to !a#t#\$#!ate #n t e
\$om!et#t#. e se"e\$#on e8e%\$#seL

Parties' submissions

41. T e A!!"#SantCs !%#n\$#!a" \$ontent#ons a#e;

a. <e 9as #n#t#a"2 found &2 &ot t e fo#me% CCP ' and t e <#%#ng
F anage% to meet t e e"#g#&#"#t2 %e:u#%ements=-

&. <e o"ds &ot a -a\$ e"o%Cs and a Faste%Cs deg#ee5 and o.e% f#.e 2ea%
of %e"e.ant e8!e#n\$e5 9 # \$ #s mo%e t an %e:u#%ed &2 t e J'. T e
fo"o9#ng e8!e#n\$e s ou"d a.e &een \$ounted to9a%ds t e J'
%e:u#%ements;

#. /e!tem&e% 1996 to Fa2 1996; fu" ,t#me em!"o2ment as a
P%og%amme Asso\$#ate fo% a Non,Go.e#nmenta" ' %gan#Hat#on=-

##. June 1996 to June 1999; fu" ,t#me em!"o2ment as a @esea%\$
Asso\$#ate=-

###. Ju"2 to De\$em&e% 1999; fu" ,t#me em!"o2ment as a P%ess
Atta\$ K Asso\$#ate5 C2!%us Dm&ass2 #n B as #ngton D.C.=

#.. Janua%2 to June 2000; fu" ,t#me em!"o2ment as a @esea%\$

\$. According to the Manual for the Applicant on the Staff Selection System (inspired since August 2011) established at the G/6 "e.e" and also considered as "Professional" established. In 2006 the "e.e" established the "na" "e.e" for the "P,2" posts and selected in UN313J as a "C.#" Affair's "ff" at the P,2 "e.e". The Affair's Union, United Nations Fission in Daifu and UNF3J found that the meeting "g&" "t2" "te#a" for "C.#" Affair's "posts and "sm#a" "o\$u!atona" groups in the "Professional" category-

d. The Administration "e.e" "o.#ded" and "anations" of "ues" going to the "g&" "t2" for "National" "Professional" "ff" "posts. The "and" "e" "g&" "t2" "seen" "s a" "o\$ess" "s" "to" "nt" "etaton" and "o9" "ng a" "e" "ta" "n" "f" "e8&" "t2". "e" "t" "e" "2ea" "s" "e" "as" "su\$ess" "e" "2" and "ont" "ad" "sto" "2" "been" "found" "e" "g&" "e" and "ne" "g&" "e" for "different" "posts" "e:u" "ng" "essent" "a" "2" "t" "e" "same" "e8!e" "en" "Se" "9" "\$" "cannot" "ut" "se" "ous" "2" under "mine" "s" "t" "ust" "n" "t" "e" "fa" "ness" and "sons" "sten" "2" of the Administration's assessment-

e. The memorandum of the Assistant / "e" "eta" "2, Gene" "a" for "uman" "esou" "ses" "F" "anagement" "ent" "ted" "Recent" "changes" "in" "the" "staffing" "procedures" "nd" "ates" "t" "at" "e8!e" "en" "Se" "at" "t" "e" "G,6" "e.e" "s" "ou" "d" "a.e" "been" "counted" "as" "e" "e" "ant" "!" "ofess" "ona" "e8!e" "en" "Se". The "e8!e" "en" "Se" "e" "a\$:" "u" "ed" "!" "o" "to" "Som" "et" "on" "of" "s" "a" "dem" "\$" "deg" "ees" "s" "ou" "d" "a" "so" "a.e" "been" "counted" "as" "!" "ofess" "ona" "e8!e" "en" "Se". "n" "2" "50M" "of" "t" "e" "A!" "!" "Sant" "Cs" "9" "o" "0" "ng" "e8!e" "en" "Se" "as" "a" "esea" "\$" "Asso" "\$" "ate" "9" "as" "counted" "I" "des" "!" "te" "e" "ng" "e" "ea" "2" "stated" "as" "a" "fu" "t", "t" "me" "em" "!" "o" "2" "ment" "I" "9" "t" "out" "g" ".ng" "a" "reason" "o" "a" "ega" "e" "as" "s" "fo" "t" "-

f. At the meeting of 26 "Sto" "e" 2017's. Gaddoua suggested the A!" "Sant" "Cs" "ate" "a" "mo.e" "to" "CA/". According to the "ues" "t" "e" "m" "n" "mum" "9" "o" "0" "ng" "e8!e" "en" "Se" "e:u" "e" "ments" "fo" "G,6" "posts" "s" "se" "en" "2ea" "s". F.s. Gaddoua considered the A!" "Sant" "to" "e" "g&" "e" "9" "e" "eas" "s" "e" "d" "s:ua" "f" "ed" "m" "fo" "t" "e" "N" ",-" "lost" "e" "ause" "a\$" "o" "d" "ng" "to" "e" "e" "d" "d" "not" "!" "ossess" "t" "e" "m" "n" "mum" "9" "o" "0" "ng" "e:u" "e" "ment" "of" "t" "9" "o" "2ea" "s" "-

g. The #s no su\$ t #ng as &o%de%"#ne e"#g#&"#t2. 1%om t e moment t e
A!!"#\$ant 9as found e"#g#&"e and !a%t#\$#!ated #n t e ent#e !%o\$ess!
d#s:ua"#f2#ng #m afte% t e \$om!"et#on of t e !%o\$ess #s un"a9fu"=-

. Des!#te t e d#s\$%e!an\$#es and e%%o%\$!u%!o%ted"2 found #n t e

&

f. The A!!"#Sant 9as g#.en \$ed#t fo% a'f of #s e8!e#en\$e as an #nte%n 9#t t e Dm&ass2 of t e @e!u&"#\$ of C2!%us #n Bas #ngton D.C. As an #nte%ns #! #s \$ons#de%ed to &e a "ea%n#ng e8!e#en\$e5 t #s e8!e#en\$e #s \$ounted on"2 at 50M. T #s a!!%oa\$ of !%o!o#t#onate \$ed#t#ng #s a"so used #n t e \$a"\$u"at#on of "e.e" and ste! u!on %e\$%u#tment. T e A!!"#SantCs e8!e#en\$e as @esea%\$ Ass#stant 9as \$ed#ted a'f5 as #s 9o%0 9as of a\$adem#\$ natu%e (%esea%\$ fo% t e !u!%ose of a &oo0 to &e 9#tten &2 #s un#.e#s#t2 !%ofesso%+ and 9as a\$:u#%ed 9 #"e e 9as stud2#ng fu"" ,t#me=

g. The e8!e#en\$e #n t e ' %gan#Hat#on #n t e f#e'd of 3T afte% Som!"et#ng #s Faste%Cs deg%ee 9as not \$ounted5 as #t 9as not %e"e. ant fo% C#.#" Affa#%s. B #"e e8!e#en\$e a\$:u#%ed #n !os#t#ons #n t e G/ \$atego%2 at t e G/,6 "e.e" and a&o.e ma2 &e \$ounted as !%ofess#ona" e8!e#en\$e5 #t must &e #n t e f#e"ds #dent#f#ed #n t e J' =

. The A!!"#SantCs tota" %e"e. ant 9o%0 e8!e#en\$e a\$:u#%ed afte% #s -a\$ e"o%Cs deg%ee 9as 14 and a a"f mont s5 and t at a\$:u#%ed afte% #s Faste%Cs deg%ee 9as t %ee mont s. D.en #f #s e8!e#en\$e as an 3nte%n and @esea%\$ Asso\$ate 9e%e \$ounted #n fu""5 e 9ou'd st#" not meet t e m#n#mum %e:u#%ed=

#. The A!!"#Sant 9as e%oneous"2 deemed to meet t e m#n#mum %e:u#%ements of t e J' . U!on d#s\$o.e%2 of t #s #t 9as #n\$um&ent on t e ' %gan#Hat#on to %emo.e #m f%om fu#t e% \$ons#de%at#on. T e ' %gan#Hat#on as a dut2 to \$o%%e\$t an2 m#sta0es made #n a se"e\$t#on !%o\$ess5 and a "eg#t#mate #nte%est #n ensu#ng t at on"2 a!!"#Sants meet#ng t e m#n#mum %e:u#%ements \$om!ete fo% .a\$ant !os#t#ons. 3t #s o&"#ged to set as#de f%om a %e\$%u#tment !%o\$ess \$and#dates 9 o do not meet t e m#n#mum \$#te%#a. T e fast t at t e e%o% 9as d#s\$o.e%ed at a "ate stage of t e !%o\$edu%e does not !%e\$"ude t e ' %gan#Hat#on f%om ta0#ng ste!s to %e\$t#f2 t e e%o%=

A. The CCP ' of t e F#ss#on 9as %es!ons#&"e fo% t e s\$een#ng !%o\$ess to dete#m#ne #f \$and#dates met t e m#n#mum edu\$at#on and e8!e#en\$e %e:u#%ements=

Consideration

Issue #5 were the rules followed correctly to assess relevant professional experience of the Applicant for the advertised ' ' (

47. The "ega" fame9o%0 fo% t e se"e\$#on of NP ' !osts #s !%#ma%#2 \$ontained #n t e Femo%andum of t e t en Unde%, /e\$%eta%2, Gene%a"5 De!a%tment of 1#e"d /u!%o%t5 ent#t"ed Delegation of Recruitment Authority and Responsibility for !ational Professional "fficers5 dated 17 ' \$to&e% 2006 ()2006 Femo%andum*+.

44. A"t oug Adm#n#st%at#.e 3nst%u\$#on /T/A3/2010/7 (/taff /e"e\$#on /2stem+5 9 # \$ a!!"#es to #nte%nat#ona" staff %e\$%u#tments5 e8!%ess"2 e8\$"udes (#n se\$. 7.2(++ t e %e\$%u#tment !%o\$edu%es fo% NP ' !osts #n !ea\$e0ee!#ng o!e%at#ons and s!e\$a" !o"t#\$a" m#ss#ons f%om #ts s\$o!e5 t e 2006 Femo%andum

4E.

51. As the head of the office, Ms. Gaddouma was entrusted with the authority to assess the integrity of candidates for the Position. As the office's policies for ensuring the integrity of an appointment in the Function is read not on the whole but also to take into account the candidate's conduct and been determined.

52. The fact that the screening process of the candidate was conducted before Ms. Gaddouma took over the CCP's functions did not prevent her from fulfilling her duties as she deemed necessary. As held in *Gusarova*;

The Manual for the Recruiter on the Staff Selection System

60. The Commission has noted that the decision was issued on 21 February 2014 and was not a final decision at the time of the contested decision. In assuming that the Commission's decision was not final, the Tribunal should have read as follows:

65. In the event of a total and complete failure of the Tribunal's jurisdiction, the Tribunal shall have no jurisdiction to hear and determine the merits of the dispute.

66. 'n t e &as#s of t #s "#st5 t e A!!"#\$ant \$"a#ms mo%e t an f#.e 2ea%s of %e"e.ant !%ofess#ona" e8!e%#en\$e5 9 #e Fs. Gaddou%aCs \$a"\$u"at#on %esu"ted #n a tota" of 14.5 mont s afte% #s -a\$ e'o%Cs and t %ee mont s afte% #s Faste%Cs deg%ee. T e d#ffe%en\$e &et9een t e t9o \$a"\$u"at#ons a%se &e\$ause t e Adm#n#st%at#on;

a. D#d not \$ount e8!e%#en\$e !%e.#ous to t e \$om!"et#on of t e A!!"#\$antCs -a\$ e'o% (#.e5 9o%0 as P%og%amme Asso\$#ate fo% an NG ' &et9een /e!tem&e% 1996 and Fa2 1996+;

&. C%ed#ted t e A!!"#\$ant 9#t 50M of #s 9o%0 as @esea%\$ Asso\$#ate and as 3nte%n P%ess Atta\$ K=

\$. D#d not \$ount an2 e8!e%#en\$e fo% t e A!!"#\$antCs !e%fo%man\$e of C#.#" Affa#s,%e"ated tas0s #n !a%a""e" to #s off#\$a" dut#es as 3T Ass#stant #n UNF3J and UN13C4P.

69. T e f#%st of t ese d#ffe%en\$es #n \$a"\$u"at#on 9as #n "#ne 9#t t e !"a#n 9o%dn#g of t e J' and 9#t t e ' <@ F gu#de"#nes a!!"#\$a&"e at t e %e"e.ant t#me5 as d#s\$ussed #n !a%as. 67 to 65 a&o.e.

E0. As to t e se\$ond %eason5 Fs. Gaddou%a e8!"a#ned #n e% test#mon2 t at s e %edu\$ed &2 a"ft t e t#me t e A!!"#\$ant 9o%Oed as a @esea%\$ Asso\$#ate &e\$ause t #s e8!e%#en\$e 9as of an a\$adem#\$ natu%e and5 a\$So%dn#g to t e A!!"#\$antCs o9n P<P5 e 9as at t e same t#me stud2#ng fu"" ,t#me.

E1. T e T%#&una" ag%ees t at #t #s sens#&"e to \$ons#de% t at one !e%son \$annot \$a%2 out t9o fu"" ,t#me a\$t#. #t#es s#mu"taneous"2 and5 on t ese g%ounds5 \$ount#ng t #s !%ofess#ona" e8!e%#en\$e as a !a#t t#me Ao& 9as "og#\$a""2 Aust#f#ed. /#m#"a%"25 t e A!!"#\$ant 9as \$%ed#ted 50M of t e t#me s!ent as an #nte%n P%ess Atta\$ K #n t e C2!%us Dm&ass2 #n t e Un#ted /tates5 on t e g%ounds t at #nte%ns #!s5 &2 defn#t#on5 a%e a "ea%n#ng e8!e%#en\$e. As t e Manual for the 2iring Manager on the Staff Selection SystemD4. 9 9348 (D4. 9 92 .5 8 011(%)13. 238 7 26) -0. 81 -323! "

E2. Jast"25 as \$on\$e%ns t e t #%d %eason5 #t #s not se"

Case No. UNDT/GVA/2014/026

Judgment No. UNDT/2015/042

62. The time gap between the notification to the Applicant of the award from the Ombudsman and the notification of analogous decisions to other candidates does

92. Cranfield 2017, UNAT, 76E Son\$e%ned a \$ase 9 e%e a staff mem&e% 9 as

Conclusion

96. In the event of the foregoing, the Tribunal decides;

The award is set aside.

(Signed)

Judge Corina / a9

Dated this 2E