

Case Nos.: UNDT/GVA/2017/025
Judgment No.: UNDT/2019/048
Date: 27 March 2019

Introduction

1. On 28 April 2017, the Applicant filed a motion for extension of time to file an application pending an out of court settlement proposal from the Management Evaluation Unit (“MEU”), which he had accepted on 15 March 2017, concerning his non-consideration/non-selection for the position of Russian Reviser (P-4), Russian Translation Service at the Department for General Assembly and Conference Management (“RTS/DGACM”), at Headquarters, New York, advertised under Temporary Job Opening No. 64192 (“TJO 64192”).

2. By Order No. 104 (GVA/2017) of 2 May 2017, the Tribunal considered that the information and documents submitted with the motion were sufficient to consider the 28 April 2017 filing as an incomplete application. The Tribunal therefore granted the Applicant until 3 July 2017 to complete his application.

3. On 2 July 2017, and failing a reply from MEU concerning the implementation of the settlement he had accepted, the Applicant filed an application contesting the decision not to consider/select him for TJO 64192.

4. The Respondent filed his reply on 5 September 2017.

5. By Order No. 163 (GVA/2018) of 5 October 2018, the Tribunal asked the parties’ views about rendering a judgment on the papers or holding a hearing limited to remedies.

6. By submissions dated 10 October 2018, the parties *inter alia* agreed to adjudication of the matter on the papers.

Facts

7. The Applicant is a Russian Translator, holding a permanent appointment (P-3), at the Economic and Social Commission for Asia and the Pacific (“ESCAP”), based in Bangkok.

8. On 1 August 2016, he applied for TJO 64192, which *inter alia* had a special notice indicating that it was for “a period of 11 months and ... for local recruitment only”.

9. As per the Respondent’s reply, five candidates applied for the position, the Applicant being one of them. The hiring manager considered the Applicant’s candidacy and placed him on the “long list” of candidates. The hiring manager then conducted a comparative review of the candidates limiting it to those who “met the minimum requirement of the [p]osition and also met the eligibility requirement of being located at the duty station. The selected candidate did [meet] both”.

10. On 28 October 2016, the Applicant received a notification that his candidature was unsuccessful.

11. On 17 December 2016, the Applicant requested management evaluation of the decision not to select him for the advertised position. Following several email exchanges between the Applicant and

extensive work experience and performance appraisal ratings of “exceeds expectations”; and

c. Since he has been long rostered for P-4 Cm93xia8.70350078601695

15. The Tribunal finds that the main issues for

Case No. UNDT/GVA/2017/025

Judgment No. UNDT/2019/048

19. Posts subject

21. It is noted that staff rule 4.5(b) does not give a right to restrict the employment of staff at the professional level to local recruitment. Rather, it refers to the fact that if the selected candidate lives or is based at the duty station where the advertised post is located, he or she will be considered as being internationally recruited but will not be

25. Second, the administrative instruction in question has a section focusing on eligibility criteria (i.e., section 5), which does not list geographical location as one of them. Further, the said administrative instruction entertains temporary recruitment of candidates at the duty station of the vacancy and outside of it, depending on the personal/professional circumstances of the selected candidate.

26. The Tribunal finds no legal grounds for the administrative instruction.

30. Additionally, as recalled in para. 9 above, the Applicant did not advance to the short list because he did not meet “the eligibility requirement of being

Case No. UNDT/GVA/2017/025

Judgment No. UNDT/2019/048