



United Nations Dispute Tribunal

Case No.: UNDT/GVA/2009/24
Judgment No.: UNDT/2009/042
Date: 16 October 2009
English
Original: French

Application

1. In his appeal to the Joint Appeals Board in Geneva, registered on 22 December 2008, the applicant requested it to recommend that:

- The decision of the United Nations High Commissioner for Refugees regarding promotions to the P-5 level during the 2007 promotion session should be rescinded;
- The High Commissioner’s decision not to promote the applicant to the P-5 level during the 2007 promotion session should be rescinded; and
- He should be awarded compensation for the injury suffered as a result of the High Commissioner’s actions.

2. In its resolution 63/253, the General Assembly decided that all cases pending before the Joint Appeals Board as at 1 July 2009 would be transferred to the United Nations Dispute Tribunal.

Applicant’s submissions

3. On 22 August 2008, the applicant submitted a request to the Secretary-General for a review of 11 administrative decisions. As he did not obtain satisfaction, he decided to exercise his rights to submit an application and request a hearing.

4. In 24 years of service in the Office of the United Nations High Commissioner for Refugees (UNHCR), the applicant’s performance was consistently rated “outstanding”. He devoted a third of his career to his work for the UNHCR Staff Council, of which he was the chairman, and this work brought him into conflict with the Administration. It seems unfair that his qualifications and experience, which go beyond what is necessary for promotion, were not recognized even though he was recommended for promotion every year since 2004. The 2007 promotion session lacked transparency. The Secretary-General should review: (i) the refusal to promote him; (ii) the High Commissioner’s decision to follow the recommendations of the Appointments, Postings and Promotions Board; (iii) the High Commissioner’s decision to reduce the number of P-5 promotion slots; (iv) the High Commissioner’s decision, after the recourse session, to add names to the list of those promoted; (v) the Administration’s failure to provide information on why promotion was denied; (vi) the decision of the Director of the Division of Human Resources Management and the Co-Chairs of the Appointments, Postings and Promotions Board to consider the 2007 promotions on the basis of the Methodological Approach and (vii) the decision to allow the Co-Chair to participate in the work of the Board.

5. The High Commissioner’s statements on the promotions system in themselves demonstrate the irregularity of the methodology used.

6. The applicant maintains that his appeal is admissible since the Joint Appeals Board granted him an extension of the deadline for submitting his appeal. He does not wish to withdraw his appeal, and calls on the Joint Appeals Board to rule on the matter.

Respondent’s observations

7. UNHCR observes that the applicant must be considered as having intended to withdraw his appeal to the Joint Appeals Board as he did not meet the deadline for submitting his appeal in full.

Judgment

8. After being summoned to a hearing by letter of 26 August 2009, the applicant requested, on several occasions, including in his last letter of 23 September 2009, that the hearing scheduled for 24 September 2009 should be postponed until his health permitted him to attend. When faced with such a request, the judge has to decide whether the applicant's presence at the hearing would contribute to the effective administration of justice.

9. Article 10 of the rules of procedure of the Geneva Joint Appeals Board reads as follows:

“1. An incomplete statement of appeal will be accepted by the secretariat as evidence of an attempt to comply with the time limits stipulated in Staff Rule 111.2 (a). Upon receipt of an incomplete statement, the secretariat will request