

Case No.:

Translated from French

6. By inter-office memorandum IOM/013-FOM/014/2011 of 1 March 2011, the High Commissioner published the list of promoted staff. The Applicant was not among those promoted.
7. On 8 March 2011, the Applicant filed a recourse before the APPB against the decision not to promote him at the 2009 annual promotions session.
8. The APPB reviewed the Applicant's request at its recourse session held from 16 to 19 May 2011. After taking into account the corrections made to the matrix in respect of the Applicant's performance and mobility, the APPB maintained its recommendation not to grant him a promotion.
9. By inter-office memorandum IOM/046-FOM/047/2011 of 25 July 2011, the High Commissioner announced the results of the recourse session. The Applicant was not among promoted staff members following the session.
10. On 4 August 2011, the Applicant received a copy of the minutes of the APPB deliberations regarding his recourse.
11. By email dated 18 August 2011, the Applicant submitted to the Deputy High Commissioner a request for management evaluation of the High Commissioner's decision not to promote him to the D-1 level at the 2009 annual promotions session.
12. By email dated 5 October 2011, the Applicant was informed that it would not be possible to respond to his request for management evaluation within the mandatory time limit.
13. By memorandum dated 22 December 2011, the Deputy High Commissioner transmitted to the Applicant the outcome of the management evaluation, namely that the decision not to promote him to the D-1 level had been taken in accordance with the rules and procedures of the Organization.
14. The Applicant filed his application with the Tribunals' Registry at Nairobi on 19 March 2012. On 5 April, the Respondent asked for the application to be transferred from the Nairobi Registry to the Geneva Registry. By Order No. 61

(NBI/2012) of 25 April 2012, the Tribunal decided to transfer the case to the Geneva Registry so that it could be decided there.

15. The Respondent submitted his reply on 4 May 2012.

16. By Order No. 135 (GVA/2012) of 27 August 2012, the Tribunal requested the Respondent to produce the following documents:

a.

Parties' submissions

21. The Applicant's contentions are:

a. The assertion in the minutes of the APPB annual session that he had been a staff member in between assignments was a distortion of the facts. During the period in question, he had been either on secondment or on special assignment for the High Commissioner;

b. The APPB was silent on how his period of service on an expert post for 12 years was taken into consideration. Moreover, the promotions methodology was discriminatory towards staff occupying expert posts and systematically disadvantaged them;

c. His performance score had not been calculated correctly and this error had an impact on his overall evaluation;

d. The fact that he had served 4 times in category E and D duty stations was not reflected in the calculation of points given for mobility. Moreover, his assignments as Senior Liaison Officer in South Sudan and as Special Adviser to the Special Representative of the African Union for Somalia were not taken into account. Furthermore, the minimum length of service required for the acquisition of points for mobility had not been made public and was not specified in the promotions methodology;

e. He met the promotions criteria established for the 2009 annual promotions session and the APPB hac,çpMçHOeSFHcqé(cy(qY(OeSFHcqé,YyOsSFpcMéMMpO SFé

h. He had been ranked 13<sup>th</sup> at the 2006 annual promotions session. Since then, his fact sheets had been persistently manipulated so as to conceal from the APPB the information needed for a full and fair evaluation;

i. No other staff member had occupied a P-5 post for such a long time. Most colleagues occupying posts at the D-2 level had been at a lower level than him in the 1980s and 1990s, when he had supervised and coached most

had served in category D and/or E duty stations was taken into account, however, as reflected in the minutes of the APPB session;

d. It was recognized in the management evaluation that the APPB assertion that the Applicant had been a staff member in between assignments was inaccurate. Nevertheless, the Applicant had no reasonable likelihood of promotion given the limited number of slots available at the D-1 level.

e.

24. Even if it is assumed that the Applicant is correct in maintaining that staff



28. It is not disputed by the Respondent that the APPB, at the first session and at the recourse session, mistakenly considered that on several occasions the Applicant had been a staff member in between assignments.

29. It follows from the foregoing that the APPB, in deciding whether the Applicant should be recommended for promotion, incorrectly applied a rule which had not been issued and incorrectly considered that the Applicant had been a staff member in between assignments on several occasions.

30. The Appeals Tribunal, in its Judgments Vangelova 2011-UNAT-172, Bofill 2011-UNAT-174 and Dualeh 2011-UNAT-175, ruled that in respect of promotions in UNHCR, the Tribunal could not rescind a decision not to promote a candidate unless it discovered procedural irregularities that had deprived an Applicant of a significant chance for promotion.

31. The Tribunal therefore needs to consider whether the Applicant would have had a significant chance of being promoted if the APPB had not committed the errors indicated above.

32. The APPB minutes show that the Applicant's ranking,

34.