

Introduction

1. The Applicant, a Procurement Officer serving at the P-3 level in the Procurement Division of the Department of Management in New York, contests the decision, notified to him on 6 November 2012, to place another staff member (Mr. K) against a post in the Regional Procurement Office in Entebbe, Uganda, without advertising a job opening, thereby denying the Applicant an opportunity to compete for it. The Applicant requests “reasonable compensation for the damage caused as a result of the los[s] of opportunity to have [his] application considered”.

2. The Respondent states that Mr. K was selected for this post in April 2011 under vacancy announcement number 10-PRO-DM-OCSS-423429-R-New York (hereinafter referred to as “vacancy no. 423429”). The post was temporarily located in New York for one year of training in line with the vacancy announcement and arrangements put in place for the Regional Procurement Office in Entebbe. In November 2012, following the completion of training, Mr. K and his post were relocated to Entebbe. The Respondent submits that, in the circumstances, there was no post in Entebbe to be advertised.

Procedural matters

3. This application was filed on 14 January 2013. On 11 February 2013, the Applicant filed supplementary pleadings.

4. The Respondent filed his reply on 19 February 2013. On the same day, the Tribunal issued Order No. 47 (NY/2013), directing the Applicant to provide any legal or factual arguments in rebuttal of the Respondent’s contentions.

5. The Applicant’s submission in response to Order No. 47 (NY/2013) was duly filed on 26 February 2013. In his submission, the Applicant requested the Tribunal to order the Respondent to:

Case No. UNDT/NY/2013/007

Judgment No. UNDT/2013/134

8. The Respondent's submission was filed on 16 October 2013, and included copies of contemporaneous documents showing the circumstances of Mr. K's employment in Entebbe, including his unredacted offer of appointment. The Applicant's submission was filed on 23 October 2013. Neither party requested a hearing. The Tribunal proceeded to decide the case on the papers before it.

Facts

9. On 5 February 2010, three Procurement Officer posts at the P-4 level were advertised with a deadline of 5 February 2010 under vacancy no. 423429. The deadline for applications was 6 April 2010. One vacancy announcement was issued for three posts, stating:

Procurement Officer (3 Posts), P-4

...

Duty Station: New York

...

Staff appointed will be required to work in Entebbe, Uganda, for the term of appointment. Recruitment against these posts for this duty station is subject to finalisation of arrangements for the initiation of a Regional Procurement Office.

10. The Applicant applied for the February 2010 vacancy announcement, but was not successful.

11. Mr. K, one of the successful candidates, received his offer of appointment on d [.956417(s)3.1578

12. On 29 August 2011, Mr. K joined the Procurement Division in New York.

13. Approximately one year and one month later, by email dated 12 October 2012, Mr. K was informed by the Executive Office of the Department of Management that in view of the urgent operational requirements at the Regional Procurement Office in Entebbe, he would be reassigned to it with effect from 1 November 2012. The email further stated: “The reassignment will be processed against the same post that you were recruited following selection against vacancy no. 423429 ([support account] P-4 post no. 64970)”.

14. The personnel action form dated 1 November 2012 states that Mr. K was reassigned from New York to the Regional Procurement Office in Entebbe “against [vacancy no.] 423429”, effective 1 November 2012. The post under which Mr. K was transferred was identified as post no. 64970.

15. At a staff meeting held on 24 October 2012, the Director of the Division made an announcement, which was subsequently confirmed by email on 6 November 2010, that Mr. K would be taking up the function of Team Leader (P-4)

Consideration

Scope of the case

18. The scope of the present case is identified as the alleged “filling of the vacant position of Team Leader, Logistics, Supply and Services Unit, Regional Procurement Office in Entebbe” in November 2012.

19. With regard to the circumstances of the April 2011 recruitment of Mr. K under vacancy no. 423429, the following procedural history is of relevance.

those contained in the vacancy announcement of February 2010, under which he was recruited. The Applicant further submits, in effect, that since the vacancy announcement was for a post in Entebbe, the provision of the offer of appointment stating that initially Mr. K would be placed in New York was unlawful.

22.

no. 423429, which specifically stated: “Duty Station: New York”, and which provided that “[r]ecruitment against these posts for this duty station is subject to finalisation of arrangements for the initiation of a Regional Procurement Office” in

Other matters

26. One of the ancillary claims of the Applicant concerns the delay in receiving a management evaluation response. The Tribunal notes that art. 8.1(d) of the Tribunal's Statute as well as staff rule 11.4(a) state that an applicant may file an appeal before the Dispute Tribunal if he or she has not received a response to his request for management evaluation within the applicable response period. The Applicant's claim that the delayed management evaluation response caused him loss or damage is misconceived and is dismissed.

Conclusion

27. The application is dismissed.

(Signed)

Judge Goolam Meeran

Dated this 30th day of October 2013

Entered in the Register on this this 30th day of October 2013

(Signed)

Hafida Lahiouel, Registrar, New York