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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2018/016

Judgment No.: UNDT/2020/041

Date: 17 March 2020

Original: English

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**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

EVANS

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Katya Melliush, OSLA

**Counsel for Respondent:**

Matthias Schuster, UNICEF

Esther Uwazie, UNICEF







official acts have been regularly performed” (see para. 32). The Appeals Tribunal held in *Rolland* that if the management is able to minimally show that the applicant’s candidature was given a full and fair consideration, the burden of proof shifts to the applicant who then must show through clear and convincing evidence that he or she was denied a fair chance of selection (*Rolland*, para. 26).

18. In the present case, the record shows that the Applicant was one of the three candidates who were invited to a written test and interview, and he received the highest score in the written test. However, as documented in the selection panel report, he was found not suitable for the post based on his interview responses, and another candidate was selected for the post.

19. The Applicant argues that he was the most qualified for the post, presenting his role as a Policy Specialist at the P-4 level for six years, his temporary filling of the contested post for eight months while recruitment was pending, and his highest written test score as evidence. He further submits that the reasoning and assessment given by the selection panel was superficial on the merits of his candidature.

20. However, the Tribunal’s role is not to substitute its decision for that of the Administration when it comes to the evaluation of job candidates. All that is required from the Administration is that it minimally shows that the Applicant’s candidature was given a full and fair consideration. The Tribunal finds that the record shows that the Administration made such a minimal showing.

21. The Applicant further argues that he was discriminated against based on his British nationality and his male gender. To support this claim, he refers to his supervisor’s email of 24 July 2017, in which she stated that DHR objected to his recruitment as there were too many British, as well as a Human Resources Business Partner’s email of 26 July 2017, in which he stated that the post was re-advertised to attract female applicants from Programme countries. According to the Applicant, these emails show that the recruitment wa

and the decision was premeditated and the recruitment process was a sham, and, therefore, he was not given a full and fair consideration.

22. In response, the Respondent submits that while the initial feedback the Applicant received in July 2017 may have suggested diversity considerations, the ultimate selection decision was merit-based as the selection panel found the selected candidate to be most suitable for the post. The Respondent further submits that UNICEF is required and committed to recruiting staff on as wide geographical basis as possible and to achieving and maintaining gender balance at all levels under the applicable legal framework.

23. The T0e79 TmETQ.00000912 0(e)-3(nde)-00.00 achieving a0093(v)1092 r5y2%3E BAF6y. E-x/00



**Conclusion**

30. In light of the foregoing, the application is dismissed.

*(Signed)*

Judge Joelle Adda

Dated this 17<sup>th</sup> day of March 2020