



Before: Judge Eleanor Donaldson-Honeywell
Registry: Nairobi
Registrar: Abena Kwakye-Berko

CHAWLA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**JUDGMENT ON THE APPLICANT'S
APPLICATION FOR
INTERPRETATION OF JUDGMENT
NO. UNDT/2022/130**

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Nicole Wynn, AS/ALD/OHR, UN Secretariat

Fatuma Mninde-Silungwe, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a former staff member of the United Nations Support Office in Somalia (“UNSOS”). He served as Chief of the Supply Section at the P-5 level on a fixed-term appointment and was based in Mogadishu.

Procedural History

2. On 16 January 2022, the Applicant filed an application with the United Nations Dispute Tribunal sitting in Nairobi to challenge the Respondent’s decision to neither select nor roster him for the position of Chief of Service, Supply Chain Management, D-1, UNSOS (Job Opening No. 152801).

3. The Respondent filed his reply on 15 February 2022.

4. The Tribunal held a case management discussion (“CMD”) with the parties on 27 September 2022. The case was set for hearings on 15 and 16 November 2022. The Respondent was directed to file witness statements for the four interview panel members and the *ex officio* Human Resource representative at the interviews by 28 October 2022.

5. The Applicant was strongly advised to retain counsel. The Tribunal facilitated this by referring the matter to the Office of Staff Legal Assistance (“OSLA”) for this purpose.

6. The Respondent complied with an Order issued at the CMD to disclose, under seal, the Personal History Profiles (“PHPs”) of the 15 candidates who were interviewed in the impugned selection exercise by 3 October 2022.

7. On 11 October 2022, OSLA informed the Registry that the Applicant was going to “continue to represent himself.”

8. On the Applicant’s motion, the Respondent further disclosed, on 12 October 2022, the Comparative Analysis Reports for the 15 rostered candidates for the job opening.

9. The Applicant filed the following documents:
 - a. ‘Motion for leave to respond or filing submissions’ with an analysis of the Respondent’s disclosed documents attached thereto, filed on 18 October 2022.
 - b. ‘Testimony of the Applicant’ filed on 15 November 2022
10. The Tribunal heard the parties in oral hearings that took place on 15 and 16 November 2022. The Applicant appeared remotely from Canada. Messrs Ronved and Dhindsa¹ testified in person at the UNDT Courtroom, while three other witnesses testified remotely.
11. During the hearings, the Respondent further disclosed, with leave of the Tribunal, the Applicant’s PHP. On the Applicant’s request, the handwritten notes of the Applicant’s interview² were also disclosed at the hearing.
12. Both parties filed their closing submissions on 29 November 2022.
13. On 8 December 2022, the Tribunal rendered judgment No. UNDT/2022/130. The Applicant’s claims were dismissed.
14. On 9 December 2022, the Applicant filed an application for interpretation of Judgment No. UNDT/2022/130.
15. On the same day, the Registry of the Dispute Tribunal wrote to the Applicant. As the Applicant was self-represented, the Registry explained as follows:

The Registry has received your application pursuant to art. 12(3) of the Statute, which is also governed by art. 30 of the Tribunal’s Rules of Procedure.

Art. 30 provides:

Either party may apply to the Dispute Tribunal for an interpretation of the meaning or scope of a judgement, provided that it is not under consideration by the Appeals Tribunal. The application for interpretation shall be sent to the other party, who shall have 30 days

¹ Chief, Operations and Resource Management (“ORM”), UNSOS.

² Respondent’s annex R/15.

to submit comments on the application. The Dispute Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

It is important to point out that an application for interpretation **will not** stay the timeline for an appeal of the judgment to the Appeals Tribunal. In other words, the time for your filing of an appeal (should you wish to lodge one) begins to run from when you received the judgment.

The Dispute Tribunal cannot alter or revise its findings once judgment has been rendered.

Parties who hold the view that the Dispute Tribunal has erred on its application or findings, on the law or the facts, are best advised to art. 11.3 of the Statute of the Dispute Tribunal and art.7.1(c) of the Statute of the Appeals Tribunal.

Please inform the Registry, by return email, whether you wish to proceed with your application for interpretation.

16. The Applicant informed the Registry that he wished to proceed with his application for interpretation.

17. The application was registered as UNDT/NBI/2022/118 and served on the Respondent.

18. The Respondent filed his response on 12 January 2023.

Deliberations

19. The Statute of the United Nations Dispute Tribunal provides for litigants to submit applications for revision or interpretation of a judgment that has been rendered. Art. 12 of the Statute provides:

Article 12

1. Either party may apply to the Dispute Tribunal for a revision of an executable judgement on the basis of the discovery of a decisive fact which was, at the time the judgement was rendered, unknown to the Dispute Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence. The application must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

2. Clerical or arithmetical mistakes, or errors arising therein from any accidental slip or omission, may at any time be corrected by the

Dispute Tribunal, either on its own motion or on the application of any of the parties.

3. Either party may apply to the Dispute Tribunal for an interpretation of the meaning or the scope of the final judgement, provided that it is not under consideration by the Appeals Tribunal.

20. Article 30 of the Dispute Tribunal’s Rules of Procedure requires the Tribunal to “decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.”

21. The jurisprudence of the Dispute and Appeals Tribunal clearly hold that a judgment can be subject to interpretation if it is ambiguous in its findings or conclusions, so that clarification of the judgment is necessary.³

22. Interpretation will not serve the party who disagrees with the judgment of the tribunal at first instance and seeks to reargue his case. In *Porter* UNDT/2017/024, the Dispute Tribunal held:

Interpretation is only needed to clarify the meaning of a judgment where there are reasonable doubts about the will of the Tribunal or the arguments leading to a decision. But if the judgment is comprehensible, whatever the opinion the parties may have about it or its reasoning, an application for interpretation is not admissible.

23. In this case, the Applicant seeks “interpretation of the meaning or the scope of” paragraph 60(b) of Judgment No. UNDT/2022/130.

24. The impugned paragraphs of the Judgment state:

60. The surrounding circumstances the Applicant relies on to establish the latter aspect of the alleged bias, mindset to select the chosen candidate, are neither clear nor convincing. These are examined in turn as follows:

[...]

b. “The panel was so focussed on the selection of this ineligible candidate that they overlooked required criteria of job opening for other candidates also which resulted in placement of 8 ineligible candidates in the roster”. The Applicant failed to substantiate that

³ See *Kisia* UNDT/2016/176 and *Kalashnik* UNDT/2015/113.

the chosen candidate was not qualified either academically or by way of relevant managerial and supply chain experience.

25. Specifically, the Applicant takes issue with the Tribunal's finding that he "failed to substantiate that the chosen candidate was not qualified either academically or by way of relevant managerial and supply chain experience."

26. The Applicant argues that the Tribunal's finding is unclear given his "detailed analysis" on the suitability of "each of the 8 rostered candidates" for the advertised position.

27. A careful reading of the Applicant's submissions on interpretation makes it apparent that he disagrees with the Tribunal's findings on the propriety of the impugned selection exercise.

28. Paragraph 60(b) of the Judgment is both comprehensible and clear. That the Applicant disagrees with it does not give cause for it to be further interpreted. The correct avenue for such a disagreement is the appellate process.

Order

29. The application for interpretation is dismissed.



Judge Eleanor Donaldson-Honeywell

Dated this 25th day of January 2023

Entered in the Register on this 25th day of January 2023



Abena Kwakye-Berko, Registrar, Nairobi