

Introduction

1. By application filed on 30 November 2016, the Applicant contests his non-consideration and eventual non-selection for the position of Russian 4 0 Td ()TjU, Td (4 0 T7j (38.868d)Tj 17.Depart 0 0 1 328.54962.1)Tj 9or

Parties' submissions

8. The Applicant's principal contentions are:
 - a. The recruitment process for the job opb

14. *Inspira* provides only five options to

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to

28. This Tribunal notes that the Applicant joined the United Nations in 1990 and

Is the Applicant entitled to any remedy?

Rescission of the contested decision

32. Having found that the Applicant's candidature for JO 50523 was unlawfully excluded, the Tribunal rescinds the contested decision and, therefore, will now look at the amount of compensation to be set that the Respondent may elect to pay as an alternative to rescission of the contested decision, pursuant to art. 10(5)(a) of the Tribunal's Statute.

33. Concerning the determination of the amount of compensation in lieu of rescission, the Appeals Tribunal

35. The Applicant has over 25 years of work experience as a Russian Translator, Reviser and Interpreter with the United Nations; he has worked at three different duty stations, to wit Nairobi, New York and Bangkok; he has continuously received positive performance appraisals, including exceeding performance expectations; has been on the roster of pre-approved candidates for the post of Russian Reviser at the P-4 level since 2008 and was rostered again in September 2015, i.e., two months before he applied for the JO 50523.

36. From the above, the Tribunal finds that the Applicant was a serious contender for JO 50523 and that it is appropriate to direct the Respondent to pay him USD2,500 as compensation in lieu of rescission.

Compensation for harm

37. In his application, the Applicant requests any “customarily relief” PaanWorkRelief035.5529937

40. In the case at hand, the Tribunal finds that the Applicant's claim for compensation for loss of opportunity is fully compensated by its decision above under art. 10.5(a) of its Statute.

41. With respect to the Applicant's claim for moral damages related to alleged discrimination, humiliation, frustration, mental anguish and moral suffering, he did not submit or suggest any supporting evidence. Furthermore, when explicitly asked by the Tribunal whether in light of the jurisprudence of the Appeals Tribunal on the issue of remedies he wished to have a hearing in this matter, the Applicant responded that he did not require a hearing.

42. In light of all of the foregoing, the Tribunal finds that the standard of proof required by the Appeals Tribunal (cf. *Kallon* 2017-UNAT-742 and *Auda* 2017-UNAT-787) is not met and, therefore, that it will not grant damages under art. 10.5(b) of its Statute.

Conclusion

43. In view of the foregoing, the Tribunal DECIDES:

- a. To rescind the decision to exclude the Applicant's candidature from consideration for the position of Russian Reviser-New York;
- b. That should the Respondent elect to pay financial compensation instead of effectively rescinding the decision, he shall pay the Applicant USD2,500;
- c. That the above compensation shall be paid within 60 days from the date this Judgment becomes executable, during which period the US Prime Rate applicable as at that date shall apply. If the sum is not paid within the 60-day period, an additional five per cent shall be added to the US Prime Rate until the date of payment; and
- d. That all other claims are rejected.

(Signed)

Judge Rowan Downing
Dated this 17th day of October 2018

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Entered in the Register on this 17th day of October 2018

(Signed)

René M. Vargas M., Registrar, Geneva