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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2019/109

Judgment No.: UNDT/2020/049

Date: 6 April 2020

Original: English

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**Before:** Judge Agnieszka Klonowiecka-Milart

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

AKTASH

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for the Applicant:**

Self-represented

**Counsel for the Respondent**

Nicole Wynn, AAS/ALD/OHR, UN Secretariat

## Introduction

1. At the time of the application, the Applicant served as a Field Security Coordination Officer with the United Nations Department for Safety and Security (“UNDSS”). He holds a fixed term appointment at the P3 level and is based in Bossaso, Somalia.

2. On 17 July 2019, the Applicant filed an application to challenge the Respondent’s decision to not roster him for a post at the P4 level, following his application to Generic Job Opening 92358 bearing post title P4 Field Security Coordination Officer.

3. The Respondent filed his reply to the application on 19 August 2019.

Facilitate the process of the Applicant's application to challenge the Respondent's decision to not roster him for a post at the P4 level, following his application to Generic Job Opening 92358 bearing post title P4 Field Security Coordination Officer.

one of 172 candidates who had been shortlisted for the interview. Applicants were allocated 45 minutes for each of the interviews.

8. According to the Applicant, the questions for the P3 and P4 posts were the same and covered the same competencies. The P4 interviews, however, also included a question on managerial skills.

9. The Applicant attended the P4 interview on Skype from the UNDSS Office in Bossaso, Somalia. The internet connection was weak, and the panel had to switch between using Skype and a mobile phone line more than once. Switching between these two media took approximately 10-15 minutes off the 45-minute interview.

10. On 22 November 2018, the day after his P4 interview, the Applicant wrote to UNDSS asking that he be interviewed again because the poor communication lines during the first interview caused him to be stressed and distracted, thus affecting the quality of his answers. This request was denied. The Applicant was told that the Panel heard his responses to their questions.

11. On 31 January 2019, UNDSS informed the Applicant that he had passed the P3 interview, but was not successful in the P4 selection exercise.

12. On 20 March 2019, the Applicant sought review of the selection decision of the P4 post by the Management Evaluation Unit (“MEU”).

responsible for the quality of communication lines and the mobile network in Somalia. When it became apparent that communication was impaired, the Panel could and should have suggested that the interview be rescheduled, but it did not.

15. Moreover, the Applicant takes issue with the regulatory framework, which leaves broad discretion in shaping the criteria for the evaluation, and on this basis posits that it was incumbent upon the Respondent to take his performance records into account when evaluating internal candidates.

16. The Applicant requests the Tribunal to order that the record of his interview be re-evaluated by a Central Review Body together with his performance records over the last three performance cycles, as well as a remedy for stress and anxiety due to unjust treatment.

17. The Respondent submits that the impugned decision was lawful. The Applicant was given full and fair consideration, and was eventually not selected or rostered for the P4 position because he did not pass the interview. He demonstrated competence in only three of the four assessed competencies listed for the position. Of the 172 candidates who were interviewed, 109 were recommended to the Field Central Review Body for the roster.

18. UNDSS made sure that all candidates were advised of the interview dates well in advance, to allow adequate time for arrangements to be made with reliable communication lines. The Applicant, like other candidates, had more than three weeks to make the necessary arrangements for his interview before the 21 November 2018 interview date that he selected. The Panel clearly heard the Applicant and understood his responses to their questions. At no point during the interview did the Applicant complain that he was not able to hear the questions being asked by the Panel. The Applicant's responses on the Planning and Organising competency simply did not satisfy the Panel, despite the Panel probing the Applicant's answer.





understand the questions. While it transpires from the pleadings that there were other cases where the communication was impeded to the degree that interviews could not proceed and had to be rescheduled, the Applicant's interview record demonstrates that his answers were registered and evaluated by the panel. As such, the Applicant does not demonstrate that in his evaluation any relevant material has not been taken into consideration.

27. The Applicant's principal contention is that the disruptions caused him to be stressed and distracted, and thus affected the quality of his answer. In this respect, the Tribunal notes the Respondent, in designing selection processes, is expected to act reasonably in making these processes reliable, fair and transparent, just in the interest of the candidates as in the interest of the Organization. The depth and conditions of probing may vary dependent on the rank and significance of the posts; the qualifying processes, however, cannot be expected to guarantee the optimal conditions for all individual candidates to present themselves. Selection for the roster of candidates, albeit being in the interest of the candidates, does not confer any rights *per se*<sup>9</sup>, and remains, principally, a management tool. Moreover, the conditions of probing have to adjust to the fact that it is conducted for a large platform. As such, there 0.00000912 0 612 792 reW\*n043( )





Organising in the P3 interview, and grade him as having satisfactorily met the requirements for that competency based on the latter interview.

31. In conclusion, the impugned decision was lawful.

**Judgment**

32. The application is dismissed in its entirety.

*(Signed)*

Judge Agnieszka Klonowiecka-Milart

Dated this 6<sup>th</sup> day of April 2020