



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2009/024/
JAB/2008/046
Judgment No.: UNDT/2009/011
Date: 25 August 2009
Original: English

Before: Judge Coral Shaw

Registry: New York

Registrar: Hafida Lahiouel

SEFRAOUI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for applicant:

Self-represented

Counsel for respondent:

Susan Maddox, ALU

Notice: The format of this judgment has been modified for publication purposes in accordance with Article 26 of the Rules of Procedure of the United Nations Dispute Tribunal.

Judgment

1. The applicant has appealed against the findings of an administrative review of his non-promotion to the post P-4 of Arabic Adviser, in the Arabic Translation Section, Language Service and Conference Services Division, Geneva. There is a preliminary issue as to whether he is time-barred from bringing this appeal.

2. On 3 December 2007, he was advised that he had not been selected for the promotion that he had sought. The applicant has told the Tribunal today that he did not immediately challenge that decision because, although disappointed, he accepted that he had not been promoted and he could live with that.

3. The applicant told the Tribunal that on 2 March 2008, he learned the identity of the person who was successful in applying for the position. From the information about that person's experience and qualifications, he found and believed that the decision not to select the applicant for the position was so flagrant and so outrageous that he needed to challenge it. He sought an administrative review of the decision on 24 March 2008.

4. For the Respondent, Ms. Maddox submitted that the applicant should have appealed against his non-promotion when he learned of it in December 2007 and that by delaying his appeal until March 2008, he is now out of time.

5. If there were one criticism of the applicant to be made, it is that he didn't make an inquiry earlier. However, I accept his explanation that he is not a person who is looking for an argument, but when he learned of evidence of what he regarded as an injustice to him, he felt obliged to take some action.

Conclusion

6. I have considered both the arguments of the applicant and Ms. Maddox in relation to this issue and I am satisfied that it was only when he learned of the identity of the successful candidate that he could reasonably have apprehended that there were grounds for such a review. Time therefore runs from 2 March 2008.

7. I find that the time for filing the appeal ran from the time when the applicant discovered the identity of the person which in turn gave rise to his apprehension that he had grounds for an appeal. Accordingly, his application for review was in time and his appeal is receivable.

(Signed)

Judge Coral Shaw

Dated this 25th day of August 2009

Entered in the Register on this 25th day of August 2009

(Signed)

Hafida Lahiouel, Registrar, New York