



ADMINISTRATIVE TRIBUNAL

Decision of the Administrative Tribunal

Handed down on 6 February 2014

DECISION IN CASE N° 75

XXX

The English version constitutes the authentic text

DECISION IN CASE N° 75 OF THE ADMINISTRATIVE TRIBUNAL

Sitting on Friday 24 January 2014
At 10.00 a.m. in Château de la Muette,
2 rue André-Pascal in Paris

The Administrative Tribunal consisted of:

Mrs. Louise Otis, Chair,
Mr. Luigi CONDORELLI,
And Mrs. Hedvig FORSSELIUS,

Mr. Nicolas FERRE and Mr. Jean LE COGUIC providing Registry services.

It handed down the following decision:

1. On 17 May 2013, the applicant filed an application with the Administrative Tribunal contesting the administration's decision to not select him for the position of Senior Public Procurement Adviser with OECD SIGMA (ref.3498). On 22 May 2013, the Tribunal summarily dismissed the application as inadmissible.
2. On 14 September 2013, the applicant requested the Tribunal to reconsider its decision on the inadmissibility of his application. The request is manifestly ill founded for the following reasons.
3. According to Article 4 a) of the Resolution of the Council on the Statute and Operation of the Administrative Tribunal: "Applications shall be filed with the Registry of the Tribunal within three (3) months from the date of notification of the rejection by the Secretary-General of the prior request or from the date of the implied refusal of such request. However, in exceptional cases, the Administrative Tribunal may admit applications filed after such time limit has expired."
4. In August 2010, the applicant applied for the position of Senior Adviser in Public Procurement (GOV/SIGMA). The Selection Panel unanimously concluded that the applicant did not have a suitable profile for the above-mentioned post. The decision not to appoint the applicant was formally confirmed on 23 September 2010, as it appears from the admission of the applicant (12 November 2012)
5. At any relevant time, the applicant has not submitted to the Secretary-General a prior written request for withdrawal or modification of the contested decision, nor did he file an application with the Administrative Tribunal.
6. However, on 24 January 2013, for the first time since his non-selection in 2010, the applicant submitted to the Secretary-General a written request challenging the selection process that led to the rejection of his candidacy. As mentioned in his application, the applicant justified his tardiness to complain as follows: "*3 January 2013 is thus the relevant date from which I was able to file the appeal against the recruitment decision being the date from which I had the necessary information on which to base an appeal.*"
7. The applicant did not receive any reply from the Secretary-General. Therefore, he filed an application with the Administrative Tribunal. The Registrar of the Tribunal summarily dismissed the application on the ground that the time limit to challenge the contested decision had expired.

8. Between 2010 and 2013, the applicant did not exercise his right to get an effective remedy –if any- in due course. He did not undertake any administrative recourse in accordance with the Resolution of the Council on the Statute and Operation of the Administrative Tribunal¹. Moreover, the applicant has not alleged any exceptional circumstances that would justify his course of action. The only ground invoked to explain his inaction within the deadlines set by the Resolution is that he only received the information upon which to base his appeal in 2013. However, the applicant substantially knew the alleged information in 2010.
9. It should be reminded that the time limits shall run from the date of the notification of the decision. Should the applicant have submitted a prior written request to the Secretary-General in due time, he would have either received detailed information or in case of no reply or rejection, he could have filed his application with the Tribunal in accordance with the provisions of the Statute.
10. Finally, it is worth noting that the statute of limitations is not just an empty formality, but rather an important safeguard of the legal system. Pursuing causes of action promptly is necessary to minimize uncertainty for all parties and the possibility of evidence getting lost, witnesses' memories fading, or official files discarded or destroyed. (See ILOAT 1734 (1998) under 3, ILOAT 3027 (2011) under 7, UNDT 043 (2011) under 5).
11. After considering the application, the Tribunal unanimously dismisses the request as clearly inadmissible. Without costs.

Done in Paris, 7 February 2014

Louise OTIS
Chairperson

Nicolas FERRE
Registrar

¹ prior request to the Secretary-General and, if dismissal of the request or no reply, an application to the Administrative Tribunal