AL NOUNOU

v.

COMMISSIONER-GENERAL OF THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST

JUDGMENT ON RECEIVABILITY

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Rachel Evers (DLA)
Introduction

1. This is an application by Fadia Al Nounou (the “Applicant”) against the decision of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, also known as UNRWA (the “Respondent”), not to select her for the post of Administrative Officer C in the Lebanon Field Office.

Facts

2. Effective 13 June 1994, the Applicant was employed by the Agency as Personnel Clerk, Grade 7, on a temporary indefinite appointment, at the Personnel Division in the Lebanon Field Office (“LFO”). Effective 1 October 2002, the Applicant’s post was upgraded to Grade 9.

3. Effective 1 August 2010, the Applicant’s post was retitled as Human Resources Assistant B, Grade 9. At the time material to the events set forth in the application, the Applicant occupied this post.

4. On 3 November 2016, the Agency advertised a vacancy announcement for the post of Administrative Officer C, in the LFO’s Health Department.

5. The Agency received 737 applications for the post, including the Applicant’s. The Applicant was not shortlisted, and she was informed of this decision on 19 April 2017.

6. On 21 April 2017, the selection process was suspended upon the request of the Director of UNRWA Affairs, Lebanon (“DUA/L”) following a number of complaints from staff members who had not been shortlisted. The suspension was lifted by the DUA/L on 24 April 2017. It is unclear from the case file whether the Applicant was informed of the resumption of the selection process.

7. On 25 April 2017, the Applicant submitted to the DUA/L a request to review the decision not to shortlist her for the post of Administrative Officer C.
8. On 4 May 2017, the Head, Field Human Resources Office (“H/FHRO”) requested his colleagues to proceed with the written test for the post of Administrative Officer C.

9. On 2 August 2017, the Applicant wrote to the LFO Grievances Officer complaining that she had not been included on the shortlist. On 7 August 2017, the Grievances Officer advised the Applicant to submit a request for decision review to the DUA/L.

10. On 7 August 2017, the Applicant submitted to the DUA/L another decision review request contesting the decision not to shortlist her for the post of Administrative Officer C.

11. On 29 November 2017, the present application was filed with the UNRWA Dispute Tribunal (the “Tribunal”). The application was transmitted to the Respondent on 6 December 2017.

12. On 29 December 2017, the Respondent filed a “Motion for Extension of Time” to file his reply outside the 30-calendar day time limit set out in Article 6(1) of the Rules of Procedure of the Tribunal. The motion was transmitted to the Applicant on 2 January 2018.


14. On 1 February 2018, the Respondent filed his reply. The reply was transmitted to the Applicant on 5 February 2018.

15. On 6 February 2018, the Applicant filed a motion to submit observations. The motion was transmitted to the Respondent on the same date.

16. By Order No. 024 (UNRWA/DT/2018) dated 18 February 2018, the Tribunal granted the Applicant’s request to submit observations.

17. On 22 February 2018, the Applicant submitted her observations. These were transmitted to the Respondent on the same date.
Applicant’s contentions

18. The Applicant contends:
   i) The impugned decision was not fair; and
   ii) She meets all the requirements for the post in question, and she had been shortlisted in the past in the selection process for a very similar post.

19. The Applicant requests the cancellation of the recruitment process, the vacancy announcement to be re-advertised, and to be shortlisted.

Respondent’s contentions

20. The Respondent contends:
   i) The application is not receivable *ratione temporis*; and
   ii) The second request for decision review dated 7 August 2017 did not reset the clock with respect to time limits for submitting an application contesting the impugned decision of 19 April 2017.

21. The Respondent requests the Tribunal to dismiss the application in its entirety.

Considerations

22. The Applicant contests the decision not to select her for the post of Administrative Officer C in the LFO.

23. On 19 April 2017, following her application for the post of Administrative Officer C, the Applicant was informed that she was not shortlisted. On 25 April 2017, the Applicant submitted to the DUA/L a review request for this decision. The Applicant did not receive a response from the DUA/L.

24. On 21 April 2017, following a number of complaints from several staff members who were not shortlisted, including the Applicant, the selection process was suspended upon the request of the DUA/L. In order to review the complaints,
the Agency decided to postpone the scheduled written test for the shortlisted candidates. The suspension was lifted by the DUA/L on 24 April 2017, after he had been informed that the screening criteria for the shortlisting exercise had been correctly applied. In his reply, the Respondent does not specify whether the Applicant was informed of the resumption of the selection process.

25. The Tribunal considers that the Applicant could reasonably have thought that, before submitting her application to the Tribunal, she had to wait for a new decision about the shortlisting exercise. On 2 August 2017, the Applicant requested advice from the LFO Grievances Officer about her potential next step as she had heard that the invitations for the written test would be sent soon and that she would not be invited. On 7 August 2017, the Grievances Officer advised the Applicant to submit a decision review request to the DUA/L.

26. The Tribunal holds that, after the establishment of the shortlist, the DUA/L reviewed the shortlisting exercise and took a final decision. However, the Applicant was not informed of this final decision. It is clear from the case file that the Applicant could reasonably have thought that a final decision had been taken by the Agency sometime in the beginning of August 2017.

27. Accordingly, on 7 August 2017, the Applicant submitted a new request for review of this final decision, and the Tribunal considers that this second request for decision review was submitted timely. The Agency did not respond to this request, and on 29 November 2017, the Applicant filed her application with the Tribunal within the prescribed time limits. Consequently, the application is receivable.
Conclusion

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

i) The application is receivable; and

ii) The Respondent is to submit a reply on merits on or before 2 July 2018.

(Signed)

Judge Jean-François Cousin

Dated this 2nd day of May 2018

Entered in the Register on this 2nd day of May 2018

(Signed)

Laurie McNabb, Registrar, UNRWA DT, Amman