

UNDT/2009/025, James

UNAT Held or UNDT Pronouncements

UNDT found that the applicant could not be recruited from his general service post to the professional level without undergoing the required examination. The UNDT awarded three-months salary as compensation for the distress caused by the Organization.

Decision Contested or Judgment/Order Appealed

The applicant, a G-6 staff member, was selected for a P-3 temporary vacancy after a competitive selection process. When the Office of Human Resources Management was informed of his selection, it amended his contract to include two restrictions to the applicant's original appointment, rendering him ineligible for the P-3 post. The applicant applied to UNDT to have the restrictions placed on his conditions of service ("appointment strictly limited to this post" and "no extension beyond eleven months without OHRM approval and required break-in-service") to be removed and for an order that the administration implement the decision to appoint him to the P-3 post in question.

Legal Principle(s)

Recruitment from general level to professional level requires competitive examination. Administration cannot unilaterally impose limitations on staff members' existing contracts. It is a universal obligation of both employee and employer to act in good faith towards each other. Good faith includes acting rationally, fairly, honestly and in accordance with the obligations of due process.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

James

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2009/033/JAB/2008/072

Tribunal

UNDT

Registry

New York

Date of Judgement

30 Sep 2009

Duty Judge

Judge Shaw

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Staff selection (non-selection/non-promotion)

Eligibility

Applicable Law

Administrative Instructions

- ST/AI/2006/3
- ST/AI/273

Staff Rules

- Rule 104.11
- Rule 104.14
- Rule 104.15