

UNDT/2009/084, Wu

UNAT Held or UNDT Pronouncements

The decision was illegal since the Applicant, as a 15-day mark candidate, had been found suitable and therefore, in application of Section 7.1 of ST/AI/2006/3, the Administration was precluded from considering and selecting 30-day mark candidates. The Administration is bound to strictly adhere to the unambiguous terms of an administrative instruction. The Administration has discretionary power to set down reasonable standards to determine if a candidate has “working knowledge” of a certain language, which it did in the present case. The Administration, in its dealing with staff members, has to act in good faith, which applies to inform Applicants who applied to a post in due time of the outcome of the selection process. Outcome: The Applicant was granted two months net-base salary at the moment of the judgment.

Decision Contested or Judgment/Order Appealed

The Applicant, at the time of the decision a P-4 Chinese Reviser at UNON, contests a decision of the Secretary-General not to select him for one of two posts issued in the same VA as Chinese Reviser at the P-4 level at UNOG. The two selected candidates were both at the P-3 level. The Applicant was subsequently selected for a P-4 Chinese Reviser post at UNOG a few months later.

Legal Principle(s)

Financial compensation (under Article 10.5 (b) of the UNDT Statute) must be proportionate to the injury suffered, having in mind the maximum amount as determined in Article 10.5 (b) of the UNDT Statute. Even if an Applicant did not suffer any financial damage, the immaterial injury caused to him/her by an illegal administrative decision may warrant compensation for the negative effects of the proven breach. To determine the amount of compensation, the particular circumstances of a given case have to be taken into account, e.g. the number of

breaches and their intensity as well as the impact the established breaches have on its victim

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Wu

Entity

UNOG

Case Number(s)

UNDT/GVA/2009/012

Tribunal

UNDT

Registry

Geneva

Date of Judgement

29 Nov 2009

Duty Judge

Judge Laker

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

Former Staff Rules

- Chapter IV

Secretary-General's bulletins

- ST/SGB/2009/11

UNDT Statute

- Article 10.7

Related Judgments and Orders

UNDT/2009/022

UNDT/2009/025

UNDT/2009/028