

UNDT/2010/040, Koh

UNAT Held or UNDT Pronouncements

The applicant had a real and substantial chance of appointment of around 50 percent and that the appointment would have lasted until his 2010 retirement date. USD2,000 nominal compensation awarded for loss of the chance to work in New York.

Decision Contested or Judgment/Order Appealed

Non-selection. The respondent was liable for breach of its obligation to the applicant in effectively depriving him of an opportunity to apply for two positions in New York for which he was suitable and, it was agreed, would have been short-listed as a staff member on an abolished post. The principle issue in assessing compensation was the valuation of this lost opportunity to be a candidate.

Legal Principle(s)

A system of justice requires a rational approach to calculating compensation. Observations on assessment of the value of the loss of a chance. Both the positive value of a chance of benefit and the loss involved in being subjected to a significant possibility of future detriment must be taken into account in the assessment of compensation for breach of contract. Applicant's chance of success at interview and likely duration of position relevant to compensation. Termination indemnities already paid and income earned during the relevant period should be deducted to avoid double payment. Unless a case is exceptional, the amount of two years' net base salary must be calculated and the compensation limited to that sum. But this limit does not inform the way in which compensation is to be calculated.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Koh

Entity

UNDP

Case Number(s)

UNDT/NY/2009/006/JAB/2007/050

Tribunal

UNDT

Registry

New York

Date of Judgement

5 Mar 2010

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Applicable Law

Staff Regulations

- Regulation 9.1

Staff Rules

- Rule 109.1(c)(i)

UNDT Statute

- Article 10.5

Related Judgments and Orders

UNDT/2010/026