

UNDT/2010/064, Fuentes

UNAT Held or UNDT Pronouncements

In declaring the Applicant's appeal time-barred on the issue of the reclassification of her post, the Secretary-General wrongfully considered that the Administration's failure to take action on the Applicant's appeal of a classification decision was an implicit decision of refusal that she should have contested within the time limits set forth in former staff rule 111.2 (a). ST/AI/1998/9 sets out special procedures for contesting a post classification or reclassification. In particular, it provides for the referral of the appeal to a Classification Appeals Committee. When an appeal is referred to this Committee, it has an obligation to issue a report with recommendations. There can be no implicit decision of refusal to reclassify a post until this Committee has made a pronouncement. In the case at hand, as a result of the breach of her right to have the Committee issue a recommendation, the Applicant lost an important chance to obtain the reclassification of her post. Consequently, she also lost a chance to be promoted to this post after its reclassification. The damages granted take into account the loss of opportunities for the Applicant as a result of the breach of ST/AI/1998/9 by the Administration. Outcome: The decision not to reclassify the Applicant's post is rescinded and the Administration is ordered to pay the Applicant an amount of 24,500 Swiss francs.

Decision Contested or Judgment/Order Appealed

On 31 January 2003, the Applicant and her supervisor requested a reclassification of her G-4 post. In January 2005, she was informed about the decision not to reclassify her post. On 29 March 2005, she sent a memorandum to the chairperson of the Classification Appeals Committee contesting the decision not to reclassify her post. In April 2005, the chairperson transmitted her request to the Human Resources Management Service (HRMS). HRMS never replied or followed up on her request. In July 2006, the Applicant requested administrative review of several decisions including the decision not to reclassify her post and subsequently, she filed an appeal before the JAB. The JAB considered that her appeal of the decision not to

reclassify her post was time-barred.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Fuentes

Entity

UNOG

Case Number(s)

UNDT/GVA/2010/029

Tribunal

UNDT

Registry

Geneva

Date of Judgement

14 Apr 2010

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Classification (post)

Compensation

Loss of chance

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/1998/9

Staff Rules

- Rule 111.2(a)