

UNDT/2010/081, Khan

UNAT Held or UNDT Pronouncements

The Head of Office acted within his authority in effectively overriding the recommendation of the APC, as provided for by Annex 4G, para. 28(a)(iii). The relationship between the SAP and the APC is sequential, not hierarchical; the judgment of one is not superior to the judgment of the other. The Head of Office is not bound to accept the recommendation of one over the other. The Head of Office is bound to exercise his independent judgment after giving careful consideration to the recommendations made to him and explaining why he preferred one candidate to another. The Head of Office did not dismiss the issue of gender imbalance as irrelevant. Outcome: The respondent acted within its authority based on a selection process which complied with the contractual entitlements of the applicant. The decision was lawful. The application was dismissed.

Decision Contested or Judgment/Order Appealed

The applicant appeals the decision not to select her for a position. The Local Selection Advisory Panel (SAP) recommended a male candidate on a temporary fixed-term appointment instead of the applicant, a female with almost eighteen years of UN experience, to the Local Appointment and Placement Committee (APC). The Head of Office selected the candidate recommended by the SAP. The applicant argued that the decision of the Head of Office went beyond the discretionary authority of the respondent and that she was not given full and fair consideration for the position.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Khan

Entity

UNICEF

Case Number(s)

UNDT/NY/2009/007/JAB/2007/058

Tribunal

UNDT

Registry

New York

Date of Judgement

5 May 2010

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Discrimination and other improper motives

Gender

Staff selection (non-selection/non-promotion)

Selection decision

Applicable Law

Staff Regulations

- Regulation 4.2
- Regulation 4.4

Staff Rules

- Rule 104.14(a)(ii)

UN Charter

- Article 101.3