

# **UNDT/2010/095, Rolland**

## **UNAT Held or UNDT Pronouncements**

Evaluation of candidates: The record appears to reflect a careful and comprehensive examination of the claims of the various applicants. There was no problematical analysis or conclusion that suggested that the process had gone awry or was anything other than proper. Failure to notify: Sec 9.5 of ST/AI/2006/3 provides that an unsuccessful interviewed applicant should be informed by the programme that they have not been selected or rostered. This was not done. The applicant suffered no loss or additional anxiety arising out of the inappropriate and discourteous way in which she became aware of her non-selection, but compliance with the specific obligations towards staff members in the appointment selection process is important and comprises a congeries of valuable rights of which it is a breach of contract to deprive a staff member. Outcome: The applicant was awarded nominal damages of USD500 for the failure to notify her of her non-selection. The application was otherwise dismissed.

## **Decision Contested or Judgment/Order Appealed**

The applicant complains that she was denied full and fair consideration for promotion in relation to one of three P-5 positions for which she applied and was interviewed, but not recommended or selected. She did not receive notification from the programme manager of her non-selection but found out through informal means. The applicant said that there were procedural flaws which invalidated the selection process, including a failure to apply the qualities listed as desirable from the vacancy announcement (VA) and a failure to have a separate evaluation criteria document approved by the Central Review Body (CRB). She further contended that she was better qualified than some of the selected candidates and that a taking into account of her prior PAS reports, which was not done by the selection panel, would have showed this.

## Legal Principle(s)

Tribunal's role in promotion cases: An assessment of candidates in a promotion exercise involves a high degree of judgment and experience which will not be replicated by a judge. Unless there is some obvious anomaly or evidence that irrelevant material was taken into account, relevant material ignored, or of a mistake of fact or law, the Tribunal will not be able to conclude that the process was significantly flawed; it is not the Tribunal's role to determine the outcome of a promotion or appointment process. It is necessary that accurate and fair records be maintained of what transpired so that a critical examination is possible. The extent to which the presence or absence of "desirable" qualities was significant needs to be evaluated in the context of the other attributes of the particular candidate. Panel failure to consider performance evaluation (PAS) reports: The mere fact that the applicant's PAS would have led to a reasonable expectation that the panel would have evaluated her competencies more favourably does not justify the conclusion that its evaluation was mistaken or unreasonable.

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Rolland

## Entity

UN Secretariat

## Case Number(s)

UNDT/NY/2009/130

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

18 May 2010

## Duty Judge

Judge Adams

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

## Applicable Law

Administrative Instructions

- ST/AI/2006/3

Secretary-General's bulletins

- ST/SGB/237