

UNDT/2011/014, Villanueva

UNAT Held or UNDT Pronouncements

Applicant's request for a swap of posts and for priority consideration: The Tribunal's Statute does not authorize it to issue such orders to the Administration. Applicant's request for an internal review of UNDSS: The Tribunal's mandate is to enforce the individual rights of applicants; it does not behove the Tribunal to oblige the Administration to remedy problems it may identify in the functioning of the Organization. Applicant's request for determination of individual responsibilities: Assuming the Applicant intended to rely on article 10.8 of the Tribunal's Statute, such article allows the Tribunal to refer, on its own initiative, cases to the Secretary-General for possible action to enforce accountability, whether or not an applicant requested it. The Applicant's individual rights would not be affected by the Secretary-General's refusal to do so, accordingly his request is not receivable.

Decision Contested or Judgment/Order Appealed

The Applicant had been recommended for promotion to the P-4 level as Deputy Chief of UNOG Security and Safety Section by the central review body and the Director General of UNOG. However, the Under-Secretary-General for safety and security did not clear his appointment and another candidate was appointed. Further to the JAB recommendation, the Secretary-General awarded the Applicant 11 months' net base salary as compensation. In his application to the Tribunal, the Applicant did not seek additional compensation for material damage but requested the Tribunal to order: (i) that his P-3 post be swapped against a vacant P-4 post; (ii) alternatively, that he be given absolute priority for any P-4 post within the Department of Safety and Security ("UNDSS"); and (c) that an internal review of UNDSS be conducted and that individual responsibilities for the breach of his rights be established. The Tribunal rejected the Applicant's requests for remedies.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Villanueva

Entity

UNOG

Case Number(s)

UNDT/GVA/2010/038

Tribunal

UNDT

Registry

Geneva

Date of Judgement

13 Jan 2011

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Pecuniary (material) damages

Remedies

Compensation (see also, Compensation)

Staff selection (non-selection/non-promotion)

Applicable Law

UNDT Statute

- Article 10.5

UNRWA DT Statute

- Article 10.8