

UNDT/2011/035, Marsh

UNAT Held or UNDT Pronouncements

Receivability of claim for relief: In his application before the former UN Administrative Tribunal, the Applicant merely requested compensation for the prejudice suffered. His request that the contested decision be rescinded, which was submitted two years later, must be rejected as time-barred since it was submitted long after the time limit for appeal had expired. 30 v. 60-day mark candidates: Section 6.2 of ST/AI/2002/4 prescribes that applications from 30-day mark candidates received after the 30-day mark shall be considered at the 60-day mark. Furthermore, it is clear from the provisions of ST/AI/2002/4—in particular sections 4.5 and 7.1, as well as paragraph 4 of annex III—that applications of candidates eligible to be considered at the 30-day mark and who applied before the 30-day mark must be considered before those of candidates eligible to be considered at the 60-day mark. 60-day mark candidates may only be considered if there are no qualified 30-day mark candidates. Compensation: In setting the appropriate amount of compensation, the Tribunal must assess the chance that the Applicant would have been promoted had the correct procedure been followed. In the present case, the Applicant had a limited chance of being promoted, but a fair chance of being recommended and thus placed on the roster.

Decision Contested or Judgment/Order Appealed

The Applicant, who was then a P-3 staff member, contested the decision to select another candidate for a P-4 post for which he had applied as a 30-day mark candidate. In the selection process, 30 and 60-day mark candidates were considered at the same time. The Applicant and two more candidates were short-listed for an interview; however, only these two candidates were eventually recommended for the post. The candidate who was appointed to the post was in principle eligible to be considered at the 30-day mark but had applied to the post after the 30-day mark. The other candidate, who was rostered, had applied within the 30-day mark.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Compensation was set at EUR2,500 for material damage (loss of chance of being promoted and of being placed on the roster) and EUR2,500 for moral damage.

Full judgment

[Full judgment](#)

Applicants/Appellants

Marsh

Entity

UNOV

Case Number(s)

UNDT/GVA/2010/046

Tribunal

UNDT

Registry

Geneva

Date of Judgement

22 Feb 2011

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Non-pecuniary (moral) damages

Pecuniary (material) damages

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Administrative Instructions

- ST/AI/2002/4

Related Judgments and Orders

UNDT/2010/153

UNDT/2010/154

2010-UNAT-044

2010-UNAT-052