

UNDT/2011/099, De Cruze

UNAT Held or UNDT Pronouncements

Presumption of regularity. There is always a presumption that official acts have been regularly performed, but this presumption is rebuttable. If the Respondent is able to even minimally show that the Applicant's candidature was given a full and fair consideration, which he did not in the present case, then the presumption of law stands satisfied. Once a minimal showing has been made, the burden of proof thereafter shift to the Applicant, who need to show through clear and convincing evidence that he was denied a fair chance of promotion. Cancelling the first selection exercise and reissuing a new vacancy announcement. ST/AI/2002/4 did not authorize, even implicitly, the USG to cancel the first selection exercise and to reissue a new vacancy announcement for the Post following the input from the DPI Focal Point for Women. Intervening in the selection exercise. The requirements of ST/AI/1999/9 and ST/AI/2002/4 regarding the participation of the FPW/DPI and Office of Human Resources Management were not properly observed. Outcome: Applicant awarded the sum of eight months' net base pay in effect in January 2006, as non-pecuniary compensation for the substantial and unwarranted irregularities in the selection process (loss of chance/opportunity)

Decision Contested or Judgment/Order Appealed

Non-selection.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

De Cruze

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2010/017/AT/1615

Tribunal

UNDT

Registry

New York

Date of Judgement

14 Jun 2011

Duty Judge

Judge Kaman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Staff selection (non-selection/non-promotion)

Full and fair consideration

Interview

Applicable Law

Administrative Instructions

- ST/AI/2002/4
- ST/AI/2006/3

Related Judgments and Orders

UNDT/2011/100

UNDT/2010/063

UNDT/2009/085

UNDT/2010/115

UNDT/2010/134

UNDT/2011/058

UNDT/2009/045

UNDT/2009/047

UNDT/2009/048

UNDT/2010/065

UNDT/2010/095

UNDT/2010/026

UNDT/2010/040

UNDT/2009/034

UNDT/2009/084

UNDT/2010/087

UNDT/2011/094

2011-UNAT-122

2010-UNAT-096

2010-UNAT-042

2010-UNAT-059

2010-UNAT-093