

UNDT/2011/102, Zhouk

UNAT Held or UNDT Pronouncements

The Administration, on three separate occasions in 2000, determined that his post would remain classifiable at the P-3 level. In 2006, the Applicant made another request to have his post reclassified and a desk audit of the post was performed under ST/AI/1998/9, but the post remained classified at the P-3 level. The Applicant contended that the Respondent failed to comply with the established procedures as set out in ST/AI/1998/9, including that the Applicant was not provided with available documentation to justify the decisions and that this effectively deprived him from filing a meaningful appeal. The Respondent contended that the appeal of the decision taken in 2000 was not receivable as it was time-barred. With respect to the 2006 decision, the Respondent argued that the Applicant's rights were not violated by the Administration's decision not to submit the post for reclassification. The Respondent further contended that the decision not to seek reclassification of the post on the basis of a desk audit was a reasonable exercise of the Respondent's discretionary authority. The Tribunal found that the 2000 decision was never properly put before the Secretary-General and therefore, was not receivable. The discovery of documentation did not prevent the Applicant from exercising his right to file an appeal and did not render the 2000 decision receivable. The Tribunal further found that the Respondent breached the Applicant's procedural rights in making the decision under appeal but that the Applicant did not provide evidence of any harm resulting from this breach, and therefore an order of compensation was not warranted. The Tribunal followed Sina 2010-UNAT-094 on the issue of compensation where the Appeals Tribunal stated that it would not approve the award of compensation where absolutely no harm had been suffered. Outcome: The Tribunal found that the Respondent had breached the Applicant's procedural rights but that the Applicant did not provide evidence of any harm resulting from this breach, and therefore an order of compensation was not warranted.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to reclassify his post from a P-3 to a P-4 level.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Zhouk

Entity

OPPBA

Case Number(s)

UNDT/NY/2010/031/UNAT/1669

Tribunal

UNDT

Registry

New York

Date of Judgement

17 Jun 2011

Duty Judge
Judge Kaman
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Classification (post)
Applicable Law
Former Staff Rules

- Rule 111.2

Related Judgments and Orders
2010-UNAT-059
2010-UNAT-093
2010-UNAT-094