

UNDT/2011/113, Bouchardy

UNAT Held or UNDT Pronouncements

Selection process: According to the APPB Procedural Guidelines, the APPB may recommend to the High Commissioner an eligible candidate who has not necessarily been proposed by the manager and the High Commissioner, in the exercise of his discretionary power, is not obliged to endorse the APPB recommendation and may appoint a staff member to a post provided s/he is eligible and her/his candidacy has been examined by the APPB. In the case at hand, the Applicant was not recommended by the Representative and this is the main reason for his non-appointment. The Tribunal has only a limited role in the assessment of a staff member's candidacy. The Tribunal may not substitute its judgment for that of the Administration in this regard.

Decision Contested or Judgment/Order Appealed

The Applicant, a UNHCR staff member in between assignments at the P-4 level, applied for a P-4 post in Ukraine. He was one of the eligible candidates released but was not recommended by the UNHCR Representative, who recommended three candidates at the P-3 level. The APPB refused to recommend either of these candidates and requested the Division of Human Resources Management (DHRM) to provide the manager with names of suitable SIBA candidates at the P-4 level. DHRM released the second tier list of candidates and identified two suitable candidates at the P-4 level, one of whom was the Applicant. The Representative reviewed all candidates and made two recommendations in order of priority. The Applicant was not among the recommended candidates. At its following session, the APPB recommended one of the proposed candidates, who was later appointed by the High Commissioner. The Applicant contests the decision not to appoint him to the above-mentioned post.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Bouchardy

Entity

UNHCR

Case Number(s)

UNDT/GVA/2010/066

Tribunal

UNDT

Registry

Geneva

Date of Judgement

23 Jun 2011

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Staff selection (non-selection/non-promotion)

Selection decision

Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNHCR Appointments, Postings, Promotion Board (APPB) Procedural Guidelines
- UNHCR IOM/070-FOM/072/2008