

# **UNDT/2011/171, Xu**

## **UNAT Held or UNDT Pronouncements**

The Tribunal ruled that the Applicant, as a 15-day candidate, had been given priority consideration, in compliance with section 7.1 of ST/AI/2006/3. It concluded that the Applicant had been considered first than 30-day candidates and found unsuitable for the post before any meaningful consideration of 30-day candidates took place.

Priority consideration as per section 7.1 of ST/AI/2006/3: This provision, as consistently interpreted by the Dispute and the Appeals Tribunals, requires that 15-day and 30-day candidates be considered separately; 15-day candidates must be considered first and, if one of them is found suitable, he or she must be selected. Only if no suitable 15-day candidate is identified can the 30-day mark candidates be considered. Meaning of “consideration” for the purpose of ST/AI/2006/3:

“Consideration” of a candidate, for the purpose of ST/AI/2006/3, means assessing his or her qualifications and skills against the requirements and competencies set out in the relevant vacancy announcement with a view to determining his or her suitability to successfully perform the functions of the post. Consideration of 30-day candidates cannot be said to have started on the date the candidates released at the 30-day mark were merely convened for a written test. The minimal review of personal history profiles required to this end may not be equated to “consideration” within the meaning of ST/AI/2006/3. Indeed, any meaningful consideration cannot begin until the relevant assessment tools—such as a written test and an interview—have been administered to the candidates. Condition to receive “priority consideration” under section 7.1 of ST/AS/2006/3: 15-day candidates were only entitled to be granted precedence under ST/AI/2006/3 provided that they were “suitable” for the position. A 15-day mark candidate who, after consideration for a position, appears not to be fit to undertake the duties of the post may not claim any further right to priority consideration. Scope of the Tribunal’s review power regarding selection decisions: As a matter of principle, it is for the Organization to determine the suitability of each candidate and the Tribunal should not substitute its assessment thereon for that of the Secretary-General. Only in rare circumstances, such as failure to give fair consideration to a candidate, discrimination or bias, departure from

proper procedures and failure to consider relevant material, may the Tribunal rescind a decision.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to select him for a P-4 post of Terminologist (Chinese).

## Legal Principle(s)

N/A

## Outcome

Dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Xu

## Entity

UNOG

## Case Number(s)

UNDT/GVA/2010/089

## Tribunal

UNDT

## Registry

Geneva

## Date of Judgement

4 Oct 2011

## Duty Judge

Judge Laker

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

## Applicable Law

Administrative Instructions

- ST/AI/2006/3

## Related Judgments and Orders

2011-UNAT-110

2011-UNAT-122

UNDT/2009/022

UNDT/2009/084

UNDT/2010/065

UNDT/2010/086