

UNDT/2012/019, Debebe

UNAT Held or UNDT Pronouncements

The Tribunal agreed that the Applicant had had a legitimate expectation of promotion but found that the granting of SPA compensated him adequately in the circumstances. It is not possible for the Tribunal to order promotion from General Service to any other category as this has been specifically prohibited by the General Assembly. The Applicant's reliance on UNAdT 1169 Abebe was misplaced because in that case the Respondent was not granted a promotion, rather it found that Abebe was eligible for promotion. The distinction is important. However, the Tribunal did find that the Applicant was entitled to fair and equal treatment and that the Respondent's handling of the Applicant's case, breached that entitlement. It was most unfair that other staff around the Applicant at ECA should have been seen to have benefitted by "errors" whilst the Applicant did not. This created an atmosphere of unhappiness and sense of inequality which should not be condoned.

Decision Contested or Judgment/Order Appealed

The Applicant had successfully brought a claim before the JAB in respect of his non-promotion from G-7 to L-1 (professional) category despite the post he encumbered having been reclassified in that way. The JAB had found that he had a legitimate expectation of promotion should have been remunerated at the higher level and recommended that the Administration promote the Applicant to the L-1 level against the post on which he was serving, and be compensated for the difference between his G-7 salary and the L-1 level from the date of classification. The Respondent did grant the Applicant SPA to the L-1 level but did not promote him to that position. The Applicant appealed the decision not to promote him from GS-7 to L-1.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Respondent is to pay the Applicant damages for distress in the sum of four months' net base salary at the L-1 level.

Full judgment

[Full judgment](#)

Applicants/Appellants

Debebe

Entity

UNECA

Case Number(s)

UNDT/NBI/2010/007/UNAT/1578

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

10 Feb 2012

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Eligibility

Selection decision

Applicable Law

Former Staff Rules

- Rule 104.15
- Rule 200.2(b)

GA Resolutions

- A/RES/33/142
- A/RES/35/210
- A/RES/55/258

Staff Rules

- Rule 4.16(b)(ii)

UNDT Statute

- Article 10.5