

UNDT/2012/065, Farr

UNAT Held or UNDT Pronouncements

Language of examination: Pursuant to section 5.6 of ST/AI/2010/7, candidates may

choose to take the oral examination in either English or French. Alternative

compensation: Given that the placement of the Applicant on the roster of successful candidates does not guarantee that she will be selected for a position, and thus does not carry appointment or promotion, the Tribunal is not required to set an amount of compensation that the Respondent may elect to pay as an alternative to the specific performance ordered. Compensation and evidence of injury: While the Applicant

seeks compensation for the injury suffered as a result of the contested decision, she does not provide any details as to the type of damage suffered, be it material or moral, nor does she provide any evidence of such damage. In accordance with the Appeals Tribunal's jurisprudence in Hastings 2011-UNAT-109 and Yapa 2011-UNAT-168, the Tribunal can only reject the Applicant's request for compensation.

Decision Contested or Judgment/Order Appealed

The Applicant, a general service staff, contests the decision not to place her on the roster of candidates successful in the competitive examination for recruitment to the Professional category of staff members from other categories. She claims that the examination process was flawed because she was denied the right to take the oral examination in French, as provided for in section 5.6 of ST/AI/2010/7, and because of the circumstances in which such right was denied. The Tribunal finds that the Applicant accepted under duress that the board of examiners conduct the oral examination in English and concludes accordingly that the contested decision must be regarded as unlawful. The Tribunal further finds that had the Applicant taken the oral examination in accordance with established procedures, she had serious chances of being placed on the roster. Accordingly, the Tribunal orders that the Applicant be placed on the roster of successful candidates.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Farr

Entity

UNOV

Case Number(s)

UNDT/GVA/2011/84

Tribunal

UNDT

Registry

Geneva

Date of Judgement

7 May 2012

Duty Judge

Judge Cousin

Language of Judgment

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Compensation

Non-pecuniary (moral) damages

Pecuniary (material) damages

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2010/7

UNDT Statute

- Article 10.5(a)

Related Judgments and Orders

2011-UNAT-109

2011-UNAT-168