

# UNDT/2012/165, Bofill

## UNAT Held or UNDT Pronouncements

Non-promotion: As regards promotions and considering the discretionary nature of these decisions, the Tribunal's role is only to review the legality of the procedure followed in line with the procedural and legal framework of the 2009 UNHCR annual promotions session, its methodology and to examine whether an irregularity vitiated a significant chance for promotion. The Applicant was not promoted due to the fact that at least 78 candidates had obtained a higher score during the evaluation process and no procedural irregularity with an impact on her status as well as a probability for promotion could be asserted. The Applicant refers to her previous career outside of UNHCR and alleges that this was not adequately taken into consideration. The Tribunal found that at the time of recruitment her previous career was reflected in the granting of an adequate grade and step (P-5/9). The Applicants' argument that since she was shortlisted and interviewed for a position at the D-2 and that such an interview would recognize her skills and capacity to perform at a higher level, it is therefore irregular that the same candidate would not be considered as fulfilling the criteria for a D-1 level grade. The Tribunal stressed that the process of applications and postings is different from the annual promotions exercise and that the one is not indicative of the other.

## Decision Contested or Judgment/Order Appealed

The Applicant contests the decision of the United Nations High Commissioner for refugees not to promote her to the D-1 level following the 2009 annual promotions session. The UNDT found that the contested decision was lawful.

## Legal Principle(s)

N/A

## Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Bofill

Entity

UNHCR

Case Number(s)

UNDT/GVA/2012/23

Tribunal

UNDT

Registry

Geneva

Date of Judgement

4 Nov 2012

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Management Evaluation

Staff selection (non-selection/non-promotion)

Applicable Law

Laws of other entities (rules, regulations etc.)

Other UN issuances (guidelines, policies etc.)

- UNHCR Appointments, Postings, Promotion Board (APPB) Procedural Guidelines
- UNHCR Promotions Policy