

UNDT/2012/198, Shaidi-Ngatunga

UNAT Held or UNDT Pronouncements

On the score of prima facie unlawfulness, the Tribunal noted that, in the letter to the; Applicant dated 19 November 2012, the Chief Human Resources and Planning Section (HRPS), informed her that her application of for the FS-5 post was not successful. The Applicant was also informed that a suitable positin had been identified for her, namely, a Claims Assistant at the G-6 level. The Tribunal found that the identification of a G-6 level post for the Applicant who at the time encumbered an FS-4 level post could not be considered a suitable position for the Applicant as required by sections 10.2 and 11.1(a) of ST/AI/2010/3. The Tribunal thus held that the contested decision was prima facie unlawful. With regard to particular urgency, the Tribunal found that according to the 19; November 2012 letter from the Chief, HRPS, the decision to assign the Applicant to a; G-6 Claims Assistant would become effective as soon as the selected candidate for the FS-5 post commenced duty. The Tribunal thus held that the Applicant had satisfied the element of urgency. On irreparable damage, the Tribunal observed that having considered the parties's submissions, it found that the Applicant was to suffer irreparable harm if another candidate was selected for the FS-5 Claims Assistant post and upon her assignment to a G-6 Claims Assistant post.

Decision Contested or Judgment/Order Appealed

The Applicant contested the ICTR's decision to deem her ineligible for a Field Service (FS) level Claims Assistant post, despite having served under an FS post in Arusha since 2005.

Legal Principle(s)

There are three statutory prerequisites contained in art. 2.2 of the UNDT Statute, i.e. prima facie unlawfulness, particular urgency and irreparable damage, that must all be satisfied for an application for suspension of action to be granted.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Tribunal granted the application for suspension of action pending management evaluation of the decision.

Full judgment

[Full judgment](#)

Applicants/Appellants

Shaidi-Ngatunga

Entity

ICTR

Case Number(s)

UNDT/NBI/2012/069

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

14 Dec 2012

Duty Judge
Judge Izuako
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Appointment (type)
Fixed-term appointment
Staff selection (non-selection/non-promotion)
Suspension of action / interim measures
Applicable Law
Administrative Instructions

- ST/AI/2010/3

UNDT RoP

- Article 13

UNDT Statute

- Article 2.2