

UNDT/2013/035, Luvai

UNAT Held or UNDT Pronouncements

Receivability: The Applications were filed within the applicable time limit, all the Applicant's claims were properly submitted for management evaluation and are therefore receivable. Full and fair consideration: The Applicant was not given full and fair consideration in the selection process. The Chief, UNON/DSS, has consistently employed personal methods to frustrate the Applicant's career prospects. Harassment: The Applicant was a victim of harassment in the workplace. The Chief, UNON/DSS' actions constituted harassment as defined under para. 1.2 of ST/SGB/2008/5. Abuse of authority: The Chief, UNON/DSS abused and exceeded his authority by not restoring the Applicant's access to Lotus Notes after the investigations were completed and no further action was taken on the matter. The Chief, UNON/DSS abused his authority by revoking the Applicant's firearm licence without providing reasons for his decision. The Chief, UNON/DSS, the Assistant Chief of Security UNON and the Human Resources Officer, UNON abused their authority by usurping the powers of the Medical Director and declaring the Applicant mentally unstable.

Decision Contested or Judgment/Order Appealed

In case No. UNDT/NBI/2011/020, the Applicant contested the administrative decisions not to select him for the following posts: Security Lieutenant under Vacancy Announcement Number 10-SEC-UNON-424103-R-NAIROBI dated 23 March 2010 and Security Lieutenant under Vacancy Announcement Number 10-SEC-UNON- 424422-R-NAIROBI dated 19 April 2010. In case No. UNDT/NBI/2011/057, he challenged a decision by UNON's Chief, Safety and Security Section to suspend his use of the Organization's Lotus Notes e-mail account.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Luvai

Entity

UNON

Case Number(s)

UNDT/NBI/2011/020

UNDT/NBI/2011/057

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

28 Feb 2013

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Disciplinary matters / misconduct

Harassment (non-sexual)

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

Administrative Instructions

- ST/AI/2005/12
- ST/AI/371

Secretary-General's bulletins

- ST/SGB/2004/15
- ST/SGB/2008/5

Staff Rules

- Rule 11.2

UNDT Statute

- Article 8

Related Judgments and Orders

UNDT/2009/017

2012-UNAT-200

2010-UNAT-070

2011-UNAT-122