

UNDT/2013/040, Charles

UNAT Held or UNDT Pronouncements

Of the 153 candidates who applied for the post, five were roster candidates, i.e., candidates from a roster of previously pre-approved candidates who participated in a prior selection exercise but were not selected. Only roster candidates were considered and one of them was selected. Non-roster candidates, including the Applicant, were not reviewed. The UNDT found that the advertised position was not a generic job opening but a position-specific job opening. The UNDT found that an automatic appointment of a roster candidate to a position-specific job opening without a selection process that affords other candidates' right to full and fair consideration and contrary to the requirements of art. 101.3 of the United Nations Charter and staff regulation 4.2 was not permissible. The UNDT found that roster candidates are not a separate privileged class of candidates for position-specific job openings and cannot be treated as such as no priority consideration is envisaged for them under ST/AI/2010/3. The UNDT found that, by not considering the Applicant because he was not a previously rostered candidate, the Administration failed to give him full and fair consideration. The UNDT awarded the Applicant USD1,000 as compensation for the breach of his rights and resultant harm.

Decision Contested or Judgment/Order Appealed

The Applicant, a staff member in the Procurement Division of the Department of Management of the United Nations Secretariat in New York, contested the decision not to select him for the post of Procurement Officer (Team Leader), Field Supply Team.

Legal Principle(s)

Selection decision: The selection decision is the decision made at the final stage of the selection process, after an objective comparison of eligible candidates. Purpose

of the roster for position-specific job openings: The purpose of the roster is to speed up the recruitment process by avoiding the stage of a referral to the central review bodies if a roster candidate is considered the best candidate when compared to all other candidates. There are certain benefits of being placed on the roster for position-specific job openings (sec. 9.4 of ST/AI/2010/3), such as being considered for a larger pool of job openings without having to apply for each of them and not having to go through the central review body process, if selected. (There are also additional benefits for qualified candidates for generic job openings (sec. 9.5 of ST/AI/2010/3) who are placed on the relevant occupational rosters.) However, an automatic appointment without a selection process that affords other candidates' right to full and fair consideration and contrary to the paramountcy requirements of art. 101.2 of the United Nations Charter and staff regulation 4.2 is not one of such benefits.

Consideration of roster candidates for position-specific job-openings: Appointment to a position-specific job opening without giving proper consideration to all candidates would be contrary to the United Nations Charter and the elaborate selection procedures in ST/AI/2010/3. If the selection scheme allowed the selection of rostered candidates for position-specific job openings without consideration of any other candidates, as suggested by the Respondent, the wording of ST/AI/2010/3 would be different. For instance, there cannot possibly be "fullest regard" given to candidates already in service of the Organization, as required by ST/AI/2010/3, if the selection decision is made without proper consideration of non-rostered candidates and without due regard to the paramountcy requirements of art. 101.2 of the Charter and staff regulation 4.2. ST/AI/2010/3 does not provide for the practice whereby non-roster candidates may be completely disregarded. Candidates from a pre-approved roster who are considered for position-specific job openings still have to be compared against other, non-rostered, candidates. However, if selected, they do not have to be referred to the central review bodies for approval pursuant to sec. 9.4 of ST/AI/2010/3.

Right to full and fair consideration: As confirmed by the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, staff members applying for positions within the United Nations have the right to full and fair consideration (Majbri 2012-UNAT-200, Charles 2012-UNAT-242).

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Only financial compensation

Full judgment

[Full judgment](#)

Applicants/Appellants

Charles

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2013/005

Tribunal

UNDT

Registry

New York

Date of Judgement

28 Feb 2013

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Administrative Instructions

- ST/AI/2006/3
- ST/AI/2010/3
- ST/AI/2010/3/Amend.1

Staff Regulations

- Regulation 4.2

Staff Rules

- Rule 11.4(a)

UNDT Statute

- Article 8.1(d)

Related Judgments and Orders

UNDT/2009/022

UNDT/2011/126

UNDT/2012/178

2012-UNAT-200

2012-UNAT-242