UNDT/2013/050, Simmons

UNAT Held or UNDT Pronouncements

With respect to the first contested selection process, the UNDT found that the Applicant was properly considered for it but was determined as not suitable. With respect to the second contested selection process, the UNDT found that the Respondent's explanation that the post was not filled due to reasons not related to the Applicant's candidacy was credible. The UNDT rejected the application.

Decision Contested or Judgment/Order Appealed

In Simmons UNDT/2013/015, the UNDT found the Applicant's case receivable. In the present Judgment (Simmons UNDT/2013/050), the UNDT considered the merits of the Applicant's claims regarding her non-selection for two P-4 level positions.

Legal Principle(s)

Allegations of bias, burden of proof: Allegations of bias and prejudice are easy to make and usually extremely difficult to prove because of the absence of affirmative evidence. Accordingly, the Tribunal must be prepared to draw inferences from the primary facts. If the facts established do not reasonably point to the possibility of bias or prejudice that will normally be the end of the matter. However, where they may tend to show that the possibility of bias, prejudice or improper considerations may possibly have infected the process the onus shifts to the Respondent to show that bias or prejudice did not in any sense whatsoever taint the selection process and final outcome.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Simmons

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2011/051

Tribunal

UNDT

Registry

New York

Date of Judgement

13 Mar 2013

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Burden of proof
Non-disciplinary
Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2006/3

Related Judgments and Orders

UNDT/2013/015
2011-UNAT-110