

# UNDT/2013/159, Nwuke

## UNAT Held or UNDT Pronouncements

Bias: The Tribunal held that the test for apparent bias is whether the fair-minded observer, having considered the facts, would conclude that there was a real possibility that the Interview Panel was biased. On the basis of the evidence about negative views held by one of the interview panel members about the Applicant, the Tribunal concluded that the test for apparent bias had been made out. Harassment, discrimination and abuse of authority: The Tribunal concluded that in spite of the adverse finding that the Applicant did not receive full and fair consideration in his application for the RIITD post, it could not find on the preponderance of evidence that the reason for that failure was an act of harassment, discrimination or abuse of process. The Tribunal found that it was rather an example of the systemic failures of the human resources system in place at time in the ECA.

## Decision Contested or Judgment/Order Appealed

The Applicant challenged his non-selection for the post of Director, Regional Integration, Infrastructure and Trade Division (D/RIITD) at ECA and alleged that the filling of the post was motivated by harassment, discrimination and a continuing pattern of abuse of authority against him by the Executive Secretary of ECA.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

## Outcome Extra Text

The Tribunal awarded the Applicant three month's net base salary as moral damages.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Nwuke

## Entity

ECA

## Case Number(s)

UNDT/NBI/2011/008

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

4 Dec 2013

## Duty Judge

Judge Shaw

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Abuse of authority

Discrimination and other improper motives

Bias/favouritism

Investigation

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

Administrative Instructions

- ST/AI/2006/3/Rev.1

## UNDT Statute

- Article 10.5

## Related Judgments and Orders

UNDT/2012/200

2010-UNAT-042

2012-UNAT-200