

UNDT/2013/161, Nwuke

UNAT Held or UNDT Pronouncements

The Tribunal held that the decision to appoint a staff member to the post of Director/RIITD off the roster without consideration of the other candidates (including the Applicant) who had applied to the post was unlawful. It failed to give the Applicant full and fair consideration for the post and denied him due process. Roster based selection: The Tribunal noted that the General Assembly resolutions on human resources management reiterate the principle of transparency in the selection process and the need for vacancies to be advertised and held that there is no transparency in a process that selects a candidate from the roster without interview or objective comparison with the other candidates. The Tribunal concluded that the reason for advertising a vacancy is to attract a wide range of candidates for selection and to give full and proper consideration to securing the highest standards of efficiency, competence, and integrity. The need for advertising is obviated if those who apply to the vacancy are not even considered.

Decision Contested or Judgment/Order Appealed

The Applicant challenged a decision by the Executive Secretary (ES) of ECA to not select him for the post of Director, Regional Integration and Infrastructure and Trade Division (D/RIITD). The Applicant alleged that this case is another in the series of persistent retaliatory actions taken against him by the ES since 2009.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Applicant was awarded on month of net base salary for moral damages.

Full judgment

[Full judgment](#)

Applicants/Appellants

Nwuke

Entity

ECA

Case Number(s)

UNDT/NBI/2011/82

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

Harassment (non-sexual)

Retaliation

Discrimination and other improper motives

Investigation

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

Administrative Instructions

- ST/AI/2006/3
- ST/AI/2010/3

GA Resolutions

- A/RES/61/244
- A/RES/63/250
- A/RES/65/247

UNDT Statute

- Article 10.5

Related Judgments and Orders

UNDT/2013/040

UNDT/2013/113

2010-UNAT-042

2011-UNAT-150

2012-UNAT-232