

UNDT/2014/093, Pirraku

UNAT Held or UNDT Pronouncements

The Tribunal concludes that it was unreasonable and wrong to have withdrawn the offer of the FS-5 position. The matter is made worse as the offer was withdrawn after a long period of protracted exchange of correspondence between the Applicant and the Respondent. Informal dispute resolution: It is obvious that meaningful consultations towards the resolution of a dispute, when deliberated on in good faith, would serve the interest of management and the staff member. It would engender a collegial work environment and remove the antagonism and friction that usually results from workplace disputes. Treating litigation as the absolute last resort allows for the efficient use of the Tribunal's (tight) resources and for proceedings to be conducted expeditiously. Confidentiality of settlement agreements: The basis for confidentiality of a settlement agreement is to create the space for free and meaningful negotiations so that parties need not fear that what they say or write can later be brought to the court's attention and thereby cause prejudice in their proceedings. Article 15.7 places the Tribunal in an invidious situation when faced with the issue of receivability of a claim following a purported or implemented agreement. If the parties are unwilling to release some evidence to the Tribunal that does not mean that the Tribunal should accept such refusal. The Tribunal may by virtue of the powers granted to it by articles 19 and 36 of the UNDT Rules of Procedure make an appropriate order to have the required information. Agreement of release: A release agreement is valid if the terms within it are implemented as agreed between the parties, within the deadlines stipulated therein or in the absence of a deadline within a reasonable time thereafter or within a time frame agreed by the parties if the original deadline(s) cannot be met.

Decision Contested or Judgment/Order Appealed

The Applicant is challenging the Respondent's decision to rescind his selection for, and offer of promotion to the FS-5 level.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Pirraku

Entity

UNMIS

Case Number(s)

UNDT/NBI/2012/14

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

4 Jul 2014

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Procedure (first instance and UNAT)

Confidentiality

Staff selection (non-selection/non-promotion)

Applicable Law

UNDT RoP

- Article 15.7
- Article 19
- Article 36

Related Judgments and Orders

2011-UNAT-111

2011-UNAT-120