

UNDT/2015/086, Rockcliffe

UNAT Held or UNDT Pronouncements

The UNDT found that the Applicant chose not to submit her candidacy for this P-5 vacancy. Accordingly, the outcome of the selection process had no direct legal effect on the Applicant's terms of appointment. The UNDT found that the Applicant lacked standing to contest the selection process. The application was therefore dismissed.

Decision Contested or Judgment/Order Appealed

The Applicant, a budget/project officer at the P-4 level at the United Nations Joint Staff Pension Fund ("UNJSPF"), who also serves as an alternate staff representative for UNJSPF, filed an application contesting the appointment of a candidate to the P-5 position of Chief of Section, Client Services, Records Management and Distribution Section, UNJSPF.

Legal Principle(s)

For the purposes of art. 2.1(a) of the Statute, it is not sufficient for an applicant to merely establish that there was an administrative decision that she or he disagrees with. As the Tribunal held in a number of cases, to have standing before the Tribunal, a staff member must show that the contested administrative decision affects her or his legal rights. It is a general principle of law that a litigant must have legal capacity and legal standing in order to invoke the jurisdiction of a court or a tribunal. A party who litigates must show that he has sufficient interest in the matter, the basic ingredient of which is that a party must show that he has a legal right or interest at stake. Generally, a litigant will have legal standing if the right on which he bases his claim is one that this individual personally enjoys. Legal standing in selection cases: Staff members have a right to be fully and fairly considered for appointments within the Organization. However, the exercise of this right is generally contingent on the staff member's submission to the recruitment process

by applying for the job. In this particular case, the Applicant has not declared her interest in being considered for the post as she chose not to apply for it despite being eligible. Absent a job application, and absent any alleged infringement of her right to submit her candidature, the Applicant has no standing to invoke the jurisdiction of the Tribunal. Legal standing of staff representatives before the UNDT: It appears that the jurisprudence of the ILOAT allows for staff associations to bring cases before the ILOAT as “representatives of the staff” in matters involving “common rights and interests”. This jurisprudence undoubtedly developed in view of the particular language of the Statute of the ILOAT and the gradual process of its interpretation. However, the United Nations Dispute Tribunal and the United Nations Appeals Tribunal are governed by their own Statutes that were adopted by the General Assembly on 24 December 2008. Whilst the Redesign Panel, which was established in 2006 to review and redesign the system of administration of justice at the United Nations, proposed to give staff associations an independent right to bring action to enforce the Staff Rules and Regulations and to file class action and representative action cases, these proposals were not accepted by the General Assembly. Consequently, these types of action are not envisaged by the Statute of the Dispute Tribunal.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Rockcliffe

Entity

UNJSPF

Case Number(s)

UNDT/NY/2015/2

Tribunal

UNDT

Registry

New York

Date of Judgement

17 Sep 2015

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Legal services (OSLA or other) and self-representation

Legal representation

Staff selection (non-selection/non-promotion)

Applicable Law

Staff Rules

- Rule 12.3

UNDT Statute

- Article 2.1
- Article 3.1

Related Judgments and Orders

