

UNDT/2016/021, Nwuke

UNAT Held or UNDT Pronouncements

Receivability –The Applicant’s patience in waiting for the Secretary-General to decide on when to grant him appropriate remedies cannot be used against him. It is not in contention that as soon as he was informed that the Secretary-General had decided that the appropriate remedies he was promised meant no remedies at all, the Applicant approached the Tribunal. The Applicant’s claims in regard to the other administrative decisions of tampering with a published vacancy announcement and the membership of the former incumbent of the position on the interview panel which were affirmed in management evaluation as not being erroneous administrative decisions are not receivable because the Applicant did not challenge those affirmations within the applicable time limits. Remedy - The Secretary-General’s decision not to grant a remedy to the Applicant for violation of his due process rights because there was no abuse of authority against the said Applicant is perverse. The Secretary-General’s admission of liability effectively superseded the administrative decision complained of in the same way that the favourable outcome of rebuttal proceedings would replace or substitute the poor rating which is the subject matter of the rebuttal process. It is a well-established principle of Law and Equity that “ubi jus ibi remedium” (where there is a right, there is a remedy). The Respondent Secretary-General having admitted that the legal right of the Applicant to due process was violated by his agents, this Tribunal has a legal duty to enforce that right. Weight to be attached to management evaluation decisions - Because management evaluation is not window-dressing but a compulsory first step to be taken before a dispute can go to the formal system, a great deal of weight is attached to it. That is the philosophy that ensured the establishment of such a mechanism by the General Assembly.

Decision Contested or Judgment/Order Appealed

On 20 March 2014, the Applicant filed an Application challenging, inter alia, the decision of the Management Evaluation Unit (MEU) not to award him remedies for

the acknowledged violation of his procedural rights.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Tribunal found tht the Applicant's due process rights were breached and awarded three months' net base salary as compensation.

Full judgment

[Full judgment](#)

Applicants/Appellants

Nwuke

Entity

ECA

Case Number(s)

UNDT/NBI/2014/22

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

14 Mar 2016

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)
Remedies

Applicable Law

Secretary-General's bulletins

- ST/SGB/2010/9

Staff Rules

- Rule 11.2(a)

UNDT RoP

- Article 7.1

UNDT Statute

- Article 8.1

Related Judgments and Orders

UNDT/2014/046

UNDT/2014/006

2013-UNAT-331

UNDT/2012/049