

UNDT/2016/089, Chhikara

UNAT Held or UNDT Pronouncements

Lawfulness of competency-based interview: On the basis of the context and requirements of the Hiring Manager's Manual and the Inspira Recruiter's Manual, the Tribunal interpreted section 1(c) of ST/AI/2010/3 as requiring that an assessment panel should normally have three members that must include a female and two subject matter experts. Given this interpretation, the Tribunal concluded that the Panel was not properly constituted as it did not have two subject matter experts. The Tribunal accepted that in evaluating candidates for selection there is inevitably some overlap of the competencies, however in this case the record of the Interview Assessment Report showed that the Panel had regard to incorrect indicators for three of the competencies and did not demonstrate that the objective criteria reflecting the relevant key competencies as required by section 1(f) of ST/AI/2010/3 were in fact applied. The Tribunal concluded that the number and quality of the anomalies, errors and the inaccurate summary of the Applicant's answers to the Panel's questions on the competency of professionalism were sufficient to negate the presumption of regularity accorded to the actions of the Administration. For all of these reasons the Tribunal concluded that the competency-based interview of the Applicant was not conducted and assessed lawfully. Compensation: The Tribunal noted that it is not within its authority to conduct an assessment of the Applicant's competencies or to order that he should be rostered for the post. Two recommended candidates met all of the competencies. Even if the Applicant had been one of the two recommended candidates there is no certainty that he would have eventually have been selected for the post. For these reasons the Tribunal declined to order the rescission of the decision and/or compensation for any of the alleged harm claimed by the Applicant as a result of his non-selection. The Tribunal found, however, that the Applicant had good reason to be disturbed and upset about the process which was not conducted with the care and rigor that staff members are entitled to and awarded him USD1 for moral damage.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the decision not to roster or select him for the post of Senior Aviation Safety Officer in New York. The Tribunal concluded that the decision not to recommend the Applicant for selection or rostering was tainted by procedural defects. The Tribunal declined to order that the impugned decision be rescinded but ordered that moral damages in the sum of USD1 be paid by the Respondent to the Applicant.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Only financial compensation.

Full judgment

[Full judgment](#)

Applicants/Appellants

Chhikara

Entity

MONUSCO

Case Number(s)

UNDT/NBI/2015/76

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

23 Jun 2016

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Interview

Selection decision

Applicable Law

Administrative Instructions

- ST/AI/2010/3

Related Judgments and Orders

UNDT/2011/126

UNDT/2016/066

2010-UNAT-042

2010-UNAT-095

2011-UNAT-174

2012-UNAT-265

2014-UNAT-418

2014-UNAT-433/Corr.1

2015-UNAT-496

2015-UNAT-540