UNDT/2016/213, Faust

UNAT Held or UNDT Pronouncements

The Tribunal was satisfied that the relevant rules were followed and found that the Applicant failed to show evidence that the decision was based on extraneous factors. It concluded that the Applicant was given full and fair consideration and rejected the application. Written test: Where an Applicant successfully passed an anonymous written test, but is subsequently eliminated at the stage of the interview, the question of who should have designed and corrected the written test in a selection process is not determinant for the outcome of the selection process vis-à-vis the Applicant. Any procedural flaw in that respect will therefore not impact on the Applicant's right to full and fair consideration. Absent any absurdity or manifest unreasonableness, the Tribunal will not interfere with the content of a written test. Experts: The Administration disposes of large discretion in the determination of who is a subject matter expert for the purpose of a selection exercise, and the Tribunal will not easily interfere with that discretion. Extraneous factors: The burden of proof with respect to extraneous factors and bias allegedly demonstrated by the Panel members in a selection exercise falls on the Applicant. In making the assessment whether there was evidence of bias, the Dispute Tribunal may take into account a final ruling by the Appeals Tribunal rejecting an appeal by the Applicant against a decision that her complaint of harassment was unfounded.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision not to select her for the P-2 post of Associate Program Officer at the United Nations Framework Convention on Climate Change (UNFCCC). She claimed that the conduct of the written test and the composition of the Interview Panel were done in violation of the relevant rules, and that the interview report showed bias against her.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

Full judgment

Applicants/Appellants

Faust

Entity

UNFCCC

Case Number(s)

UNDT/GVA/2015/139

Tribunal

UNDT

Registry

Geneva

Date of Judgement

6 Dec 2016

Duty Judge

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Burden of proof
Staff selection (non-selection/non-promotion)
Full and fair consideration

Applicable Law

UNDT Statute

- Article 10.5(b)

Related Judgments and Orders

UNDT/2015/021
UNDT/2016/052
2012-UNAT-201
2014-UNAT-434
2011-UNAT-122
2015-UNAT-540