

UNDT/2017/003, Smith

UNAT Held or UNDT Pronouncements

The Tribunal found that UNMISS was incorrect when it restricted applicants to the TJO to staff already employed by UNMISS since the Applicant was an internal candidate. The Tribunal concluded that the decision to consider the Applicant ineligible for the TJO was unlawful and breached the Applicant's right to be fully and fairly considered for the post. The Tribunal found the application receivable and that the contested decision not to find the Applicant eligible for the TJO and the related decision to continue the selection process were unlawful and breached the Applicant's right to a full and fair consideration for the temporary post. The UNDT granted in part the Applicant's request for moral damages and considered that the amount of USD1,500 together with the judgment represented a reasonable and sufficient compensation for the loss of career prospects determined by the contested decision denying his eligibility for the TJO.

Decision Contested or Judgment/Order Appealed

The Applicant, a P-4 air transport officer in DFS applied for a temporary job opening at the P5 level in UNMISS and was deemed ineligible for it because UNMISS had restricted applicants to those already employed by UNMISS.

Legal Principle(s)

Eligibility to TJO: The Tribunal underlined that, as determined by the consistent jurisprudence of the United Nations Dispute and Appeals Tribunals, a staff member has no right to be selected for a post, but does have the right to be fully and fairly considered for it.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Only financial compensation

Full judgment

[Full judgment](#)

Applicants/Appellants

Smith

Entity

DFS

Case Number(s)

UNDT/NY/2015/42

Tribunal

UNDT

Registry

New York

Date of Judgement

17 Jan 2017

Duty Judge

Judge Greceanu

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Eligibility

Applicable Law

Administrative Instructions

- ST/AI/2010/4/Rev.1

Staff Rules

- Rule 4.15
- Rule 4.16

UNDT Statute

- Article 3.1
- Article 8.1