

# UNDT/2018/038, Rehman

## UNAT Held or UNDT Pronouncements

Assessment process; The Tribunal notes that in her entire application, the Applicant did not provide any proof of the allegations of bias and the negative influence of the Chief of Human Resources in the recruitment process. The Applicant's further allegations of irregularity in the recruitment process have equally not been substantiated.; Since the Applicant was found not to be a suitable candidate and consequently not among the recommend[ed] candidates, her arguments on the lack of application of the gender parity considerations and the recruitment of an external candidate are not matters that arise with respect to her candidature.; Notification of non-selection; Failure of notification of non-selection may have a serious impact on the future career development of a staff member by delaying preparation for seeking other positions. It also delays the administrative review/management evaluation of the case.; A delay in notifying a staff member of non-selection may have a different impact depending on the circumstances of the case. In the case at hand, by not informing the Applicant of her non-selection, UNICEF, PCO, breached the then-applicable Staff Selection policy. This is especially so considering that the Applicant had been inquiring several times about the status of the recruitment process, she had been separated unlawfully from the Organization (see Judgment Rehman UNDT/2018/031) and that she was facing uncertainty of employment after nine years of service with UNICEF, PCO.; The above cited irregularity did not have a direct effect on the Applicant's non-selection. Consequently, as noted by the Appeal's Tribunal, where an irregularity has no impact on the status of a staff member, the staff member is not entitled to rescission (Onana 2015UNAT-533); However, based on the evidence heard from the Applicant during the hearing, the Tribunal is satisfied that she suffered stress and anxiety because of that procedural violation, warranting the award of USD500 as nominal damages.

## Decision Contested or Judgment/Order Appealed

The Applicant, a former staff member of UNICEF, contests the decision not to select her for the post of Programme Assistant, GS-5, fixed-term, Polio Section, Peshawar, Pakistan, and not to inform her of not being selected.

## Legal Principle(s)

When the Tribunal is reviewing a non-selection case, every stage of the selection procedure is subject to judicial review to ascertain (1) whether the procedure as laid down in the Staff Regulations and Rules was followed, and (2) whether the staff member was given fair and adequate consideration (Ljungdell 2012-UNAT-265); All candidates before an interview panel have the right to full and fair consideration, and a candidate challenging the denial of promotion must prove through clear and convincing evidence that the procedure was violated, the members of the panel exhibited bias, irrelevant material was considered or relevant material was ignored.; If the Organization is able to minimally show that an Applicant's candidature was given full and fair consideration, the burden of proof shifts to the Applicant who must show through clear and convincing evidence that she was denied a fair chance in a recruitment exercise.

## Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Judgment vacated by UNAT Judgment Rehman 2018-UNAT-886 with respect to the award of damages and interest linked to it (paras. 43.b. and c. of UNDT Judgment).

Full judgment

[Full judgment](#)

Applicants/Appellants

Rehman

Entity

UNICEF

Case Number(s)

UNDT/GVA/2016/17

Tribunal

UNDT

Registry

Geneva

Date of Judgement

14 Mar 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Discrimination and other improper motives

Bias/favouritism

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNICEF Policy on Staff Selection

Related Judgments and Orders

2011-UNAT-122

2012-UNAT-242

2012-UNAT-200

2011-UNAT-110

2012-UNAT-265

2014-UNAT-454

UNDT/2018/031

2015-UNAT-533