

# UNDT/2018/113, Abdellaoui

## UNAT Held or UNDT Pronouncements

The Tribunal examined the following issues:; Issue No. 1 Classification exercise and lateral move requirements; The Tribunal noted that prior to the post being advertised it had been classified as a “geographical” rather than a “language” post. As a consequence, the lateral move requirements, which apply to geographical but not to language posts, would have been to the Applicant’s disadvantage. Following its classification as a language post this requirement was removed and staff at P-4 level, including the Applicant, were eligible to apply notwithstanding any lack of lateral moves.; Clearly, the classification exercise that was undertaken prior to the advertisement of the vacancy in 2016 was favourable to the Applicant and cannot be used as an argument to impugn the decision.; Issue No. 2 Did the Applicant have “significant language related management experience in international, regional, or national institutions”?; The Tribunal considered that the Applicant’s argument that the classification was used as a means to add an “illegal” requirement, namely “significant language related management experience in international, regional, or national institutions is required” to exclude her, has no merit.; The Tribunal sought clarification at the hearing as to the meaning of “significant language related management experience in international, regional, or national institutions”. After hearing evidence from the Hiring Manager and the Applicant, the Tribunal found that this particular criterion was job related and that it was reasonable for the Hiring Manager to assess the Applicant as not meeting this criterion.; The Tribunal found that the Hiring Manager did not abuse her discretion as alleged in that the requirement of “significant language related management experience in international, regional, or national institutions” for the post of Chief, ATS/DCM, was entirely reasonable, particularly in light of the complex managerial challenges within the ATS to which both the Applicant and the Hiring Manager testified.; Issue No. 3 Did the Applicant’s roster status have an impact on her non-selection?; The Tribunal referred to the evidence given by the Hiring Manager that since this was not a recruitment from roster and since she decided to conduct a full-fledged selection exercise, whether a candidate was marked as a roster candidate, or not, had no bearing on the application of the shortlisting criteria.; Issue No. 4 Was the requirement of “significant language related management experience in international, regional, or national institutions” applied consistently?; The Tribunal was satisfied that the Hiring Manager applied the criterion consistently and recalled that the Applicant herself conceded during the hearing that she did not possess the required standard of managerial experience.; Issue No. 5 Was the Applicant unduly denied the opportunity to acquire in-house managerial experience?; The Tribunal noted that the Hiring Manager joined the Languages Services in 2015 and that even if she had designated the Applicant to be OIC in March 2016, this would not have changed the fact that at the time of the JO, which was advertised in June 2016, the Applicant would not have fulfilled the requirement of “significant language related management experience in international, regional, or national institutions”. Further, the Applicant did not contest that decision through management evaluation and it was thus not properly before the Tribunal in the present proceedings.; Issue No. 6 Were the decisions motivated by extraneous factors?; The Tribunal was satisfied that the Administration provided a clear and lawful account of the process by which candidates were assessed and a satisfactory explanation for not considering the Applicant as a suitable candidate. The wide-ranging allegations of impropriety in the selection process and the criticisms levelled against the Hiring Manager were without substance. There was no evidence of bias or other extraneous motive to call into question the manner in which the Applicant had been treated.

## Decision Contested or Judgment/Order Appealed

This judgment concerned two separate applications against the decision not to shortlist the Applicant for the post of Chief, Arabic Translation Section (“ATS”) (P-5), Division of Conference Management (“DCM”), United Nations Office at Geneva (“UNOG”) (Case No. UNDT/GVA/2017/015) and the decision not to select her for

that post (Case No. UNDT/GVA/2017/047).

#### Legal Principle(s)

In selection and appointment matters, the Administration enjoys broad discretion and the Tribunal's consideration is limited to whether the procedure laid down in the Staff Regulations and Rules was followed and whether the staff member was given full and fair consideration (Abbassi 2011-UNAT-110).; In non-selection cases, there is a rebuttable presumption that official acts are presumed to have been regularly performed (Rolland 2011-UNAT-122).; The burden of proving improper motives such as abuse of authority, discrimination, retaliation or harassment rests on the person making the allegations" (Nwuke 2015-UNAT-056, Jennings 2011-UNAT-184).

#### Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Abdellaoui

Entity

UNOG

Case Number(s)

UNDT/GVA/2017/15

UNDT/GVA/2017/047

Tribunal

UNDT

Registry

Geneva

Date of Judgement

21 Nov 2018

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Related Judgments and Orders

2011-UNAT-110

2011-UNAT-122

2011-UNAT-184