

# UNDT/2019/005, Ross

## UNAT Held or UNDT Pronouncements

UNDT noted that a staff member has a right to be fully and fairly considered for promotion through a competitive selection process untainted by improper motives like bias or discrimination. A candidate has no right to a promotion. UNDT held that 'Priority consideration' cannot be interpreted as a promise or guarantee to be appointed or receive what one is considered in priority for and that to hold otherwise would compromise the highest standards of efficiency, competency, and integrity required in selecting the best candidate for staff positions under Article 101 of the Charter. The Tribunal found that the Applicant was afforded the options to accept to be recommended for appointment by the High Commissioner and also to apply for the position once it was re-advertised. Both scenarios availed the Applicant of consideration and the claimed preference in the selection. The Tribunal found that the reasons given by the Applicant for his refusal to accept a recommendation or to apply for the post do not support the Applicant's case. The Tribunal did not deem the application moot, because the Applicant requested reinstatement as a remedy. The Tribunal did not find reinstatement or compensation in lieu to be appropriate remedies. The Tribunal considered that the career potential of the Applicant was not harmed by the Respondent as another opportunity was created for him to run for the post. The Tribunal considered that a negative outcome in the selection exercise, while harming the ego, may not be per se impugned as damage to dignity and reputation. An investigation initiated by the Applicant against the Hiring Manager did not confirm abuse of authority and the Tribunal found it had no basis to find otherwise.

## Decision Contested or Judgment/Order Appealed

The Applicant is contesting the High Commissioner's decision not to appoint him to the position of Senior Protection Officer in Rabat, Morocco.

## Legal Principle(s)

A staff member has a right to be fully and fairly considered for promotion, and selection in general, through a competitive selection process untainted by improper motive. A negative outcome in a selection procedure does not per se impugn damage to the reputation and dignity of a candidate.

## Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ross

Entity

UNHCR

Case Number(s)

UNDT/NBI/2016/033

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

16 Jan 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

UN Charter

- Article 101

Related Judgments and Orders

2010-UNAT-070

2010-UNAT-088

2017-UNAT-742

2013-UNAT-286