

UNDT/2019/016, Nikolarakis

UNAT Held or UNDT Pronouncements

The Tribunal noted that at the time of the hearing, Respondent counsel had not been instructed or informed the recruitment exercise in question and consequently did not apprise the Tribunal about this fact, just as the Applicant's Counsel did not know about the Applicant's application for the position. The Tribunal held that the applying party, the Respondent, meaning the Administration at large, must have known about the ongoing recruitment exercise and the Applicant's job application for the Job Opening. At the very least, such knowledge must be imputed or assumed to have been known to the Respondent, even though from the circumstances it is clear that the pertinent information was not within the knowledge of counsel for the Respondent, but the Administration at large. The Tribunal decided to reject the application for revision. The Tribunal also invited the parties to file a joint motion stating whether they have settled the matter amicably or make submissions on liability.

Decision Contested or Judgment/Order Appealed

The Respondent filed an application for revision of judgment UNDT/2017/068 (Nikolarakis) on relief, contending that certain decisive facts were unknown to the Tribunal and Counsel for the Respondent when the Judgment was rendered. The contention in this case is the quantum of compensation which was set by the Tribunal. The Tribunal noted that contrary to the submissions made and evidence adduced at the hearing in the main case on 4 April 2017, a selection exercise for thirteen S-3 positions took place pursuant to a job opening issued on 21 April 2017, following which the Applicant was appointed to an S-3 level position on 29 March 2018. The Respondent argued that these are facts warranting a revision of the judgment on compensation to lower it.

Legal Principle(s)

Knowledge of relevant facts by a party can legitimately be imputed to their legal representative.

Outcome

Revision, correction, interpretation or execution

Outcome Extra Text

Application rejected but parties invited to settle

Full judgment

[Full judgment](#)

Applicants/Appellants

Nikolarakis

Entity

DSS

Case Number(s)

UNDT/NY/2017/092

Tribunal

UNDT

Registry

New York

Date of Judgement

31 Jan 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Judgment-related matters

Revision of Judgment

Applicable Law

UNDT Statute

- Article 12.1

Related Judgments and Orders

UNDT/2017/068

2011-UNAT-129