

UNDT/2019/043, Amineddine

UNAT Held or UNDT Pronouncements

With respect to the Applicant's challenge against his non-selection for JOs 2016/038 and 2016/026, the Tribunal found that the Applicant was put on notice on 19 December 2017 that he would not be selected for either of the JOs because he had failed the technical tests. Consequently, he had 60 days from 19 December 2017 or until 17 February 2018 to submit a request for management evaluation but did not submit his request until 26 June 2018. The fact that the Applicant erroneously sought a waiver of the management evaluation deadline approximately six months after the fact from the UNIFIL Head of Mission did not change the fact that he failed to act timeously and diligently. The Tribunal concluded that the Applicant's challenge against the nonselection decisions for JOs 2016/038 and 2016/026 was time-barred and not receivable. With respect to the Applicant's challenge against his non-selection for JO 87684, the Tribunal noted that a request under art. 8.3 should be filed before the expiry of the 90day statutory deadline in art. 8.1(d)(i)(a). The Tribunal held that although the Applicant submitted his request for extension of time on the last day of the 90-day deadline, he was still within the statutory deadline. The Tribunal noted however that an extension or waiver of time can be justified under art. 8.3 of the UNDT Statute only if the applicant shows that exceptional circumstances beyond his or her control prevented him or her from acting within the statutory time limits. The reason the Applicant provided for his request for extension of time was that he was trying to find a mediated solution under the auspices of the ombudsman. He did not provide documentation showing that he and UNIFIL were in mediation within the deadlines for the filing of his application. In the absence of tangible documentary evidence from the United Nations Ombudsman and Mediation Service regarding informal dispute resolution under its auspices, the Tribunal held that the Applicant had not shown exceptional circumstances that were beyond his control. Thus, the Tribunal reversed its initial conclusion that the Applicant had satisfied the requirements under art. 8.3 of the UNDT Statute for an extension and/or waiver of the deadlines to file his application. The Applicant's challenge against his non-selection for JO 87684 was deemed not receivable. UNAT found the Applicant's challenge against his nonselection for JO 87684 receivable and remanded this claim to UNDT.

Decision Contested or Judgment/Order Appealed

The Applicant contested his non-selection for three positions (Job Openings (JO) 2016/038, 2016/026 and 87684).

Legal Principle(s)

In accordance with staff rules 11.2(a) and 11.2(c), for an application to be receivable, the applicant must first submit a request for management evaluation within the applicable time limit, which is "60 calendar days from the date on which the staff member received notification of the administrative decision to be contested". Pursuant to article 8.3 of the UNDT Statute, upon written request by the Applicant, the Tribunal may decide to "suspend or waive the deadlines for a limited period of time and only in exceptional cases".

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Amineddine

Entity

UNTSO

Case Number(s)

UNDT/NBI/2019/003

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

21 Mar 2019

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Staff selection (non-selection/non-promotion)

Applicable Law

Staff Rules

- Rule 11.2(a)
- Rule 11.2(c)

UNDT Statute

- Article 8.1(d)(i)

Related Judgments and Orders

2019-UNAT-962