

UNDT/2020/095, Ross

UNAT Held or UNDT Pronouncements

The Applicant applied for JO 57267 as a former staff member, and in the same capacity he filed his challenge to the non-selection decision for JO 57267. There was no nexus between the Applicant's former employment with UNHCR and his standing as an applicant for JO 57267. The alleged fact that UNHCR in their recruitment processes applied the legal fiction of treating former staff members as internal applicants for a period of time, did not create a nexus extending over any other recruitment processes, such as the contested one.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to not appoint him to the position of Legal Officer, at the P-4 level, in the Office of Human Resources Management ("OHRM"), Nairobi, job opening number 57267 ("JO 57267").

Legal Principle(s)

Pursuant to articles 2.1 and 3.1 of the UNDT Statute, a necessary condition for the exercise of the jurisdiction of the Tribunal is that the impugned decision concerns the terms of appointment or the contract of employment such as it stood at the time when the applicant was a staff member. Thus, a former staff member may contest a decision not to renew their appointment, as such decisions relate to the terms of the staff member's former appointment. Conversely, the status of a former staff member per se does not grant access to the Tribunal regarding administrative decisions which occur outside the framework of the former employment relation between a staff member and the Organization, such as is pertinent to a new employment relation which does not involve a staff member status (official other than staff, consultant).

Outcome

Dismissed as not receivable

Outcome Extra Text

The application was not receivable because the impugned decision did not violate the Applicant's former terms of appointment.

Full judgment

[Full judgment](#)

Applicants/Appellants

Ross

Entity

UNHCR

Case Number(s)

UNDT/NBI/2016/056

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

23 Jun 2020

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Staff selection (non-selection/non-promotion)

Applicable Law

UNDT Statute

- Article 2.1
- Article 3.1