

UNDT/2020/108, Hanson

UNAT Held or UNDT Pronouncements

The Respondent has minimally shown that the Applicant received a full and fair consideration. The Applicant was lawfully not selected for the Post, as her test result was below the passing score. The requirements the written test directly related to the responsibilities of the contested position. There was no indication of any alterations or discrepancies with the marking methodology. The Organization does not have a promotion system where managers are obligated to develop and train supervisees for promotion opportunities and assist them in career growth and, therefore, job applicants have no right to be trained for recruitment exercises. It is not within the jurisdiction of the Tribunal to pronounce on the merits or deficiencies of such a system. Managers and supervisors are obligated “to take all appropriate measures to promote a harmonious work environment, free of intimidation, hostility, offence and any form of prohibited conduct. It is incumbent on managers to resolve escalation of disharmonious relationships through constructive dialogue and a humane management approach. In the instance case, if such a dynamic existed between the Applicant and her supervisors, it is recommend that the Applicant’s FRO and the Chief of Client Services take steps to address the on-going relationship issues between them and the Applicant. Th Applicant’s managers should finalize any outstanding performance appraisals for the Applicant and avoid such delays in the future as such mismanagement does not contribute to a harmonious workplace. In respect of the reassignment decision, the decision is not receivable *ratione materiae* as the Applicant did not seek management evaluation.

Decision Contested or Judgment/Order Appealed

Decision not to select the Applicant for a position of Benefits Assistant.

Legal Principle(s)

The Secretary-General has broad discretion in the selection and appointment of staff. In matters of staff selection, it is the role of the Dispute Tribunal to review the challenged selection process to determine whether the applicable regulations and rules have been applied and whether a candidate has received full and fair consideration, discrimination and bias are absent, proper procedures have been followed, and all relevant material has been taken into consideration. The Tribunal's role is not to substitute its decision for that of the Administration. The official acts of the Respondent enjoy a presumption of regularity. If the management is able to even minimally show that an applicant's candidature was given a full and fair consideration, then the presumption of law stands satisfied. To rebut this minimal showing, the applicant "must [then] show through clear and convincing evidence that [s/he] was denied a fair chance of promotion" in order to win the case. Even if the Tribunal finds that the procedure was not properly followed, such irregularity will only result in the rescission of a non-selection decision if the candidate would have had a significant chance of selection. Absent any improper motives, it is within the discretion of the Administration to decide what assessment method is best suited to evaluate candidates. An applicant cannot substitute his or her own evaluation method for that of the Administration.

Outcome

Dismissed on merits

Outcome Extra Text

Partially dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Hanson

Entity

UNJSPF

Case Number(s)

UNDT/NY/2019/024

Tribunal

UNDT

Registry

New York

Date of Judgement

30 Jun 2020

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Staff selection (non-selection/non-promotion)

Written test

Applicable Law

Staff Regulations

- Regulation 1.2(c)

UN Charter

- Article 101.1

Related Judgments and Orders

2011-UNAT-110

2011-UNAT-141

2013-UNAT-286

2011-UNAT-122

2015-UNAT-540

2018-UNAT-829

2019-UNAT-932

UNDT/2012/200

2014-UNAT-397

2017-UNAT-762

2011-UNAT-172

2011-UNAT-174

2014-UNAT-454