

UNDT/2020/110, Amineddine

UNAT Held or UNDT Pronouncements

The Applicant indicated that he had been promised during a pre-interview presentation that the names of the assessors would be provided. The Respondent failed to present a plausible, or indeed any, basis for the non-response to the Applicant's proactive inquiry as to the names of the assessors. It would have been proper, under the circumstances, for the Respondent to either dispute the fact of the promise or provide the requested information. The Respondent's silence drew a finding of impropriety. If the Applicant had received the assessors' names, he would have had the opportunity to raise his concerns as to potential bias before the day of the interview. Whether the Applicant tried to raise his concerns about bias on the day of the interview was disputed. This dispute would not have arisen if the Respondent had responded to the Applicant's first email. The Applicant would not have had to write the second email had his first email been acknowledged and a response given. Rescission of the challenged decision was considered an inappropriate remedy based on the time that had elapsed, the fact that other candidates served in the position and the Applicant had since been promoted to an equivalent position. Compensation was an alternative to the rescission of the contested administrative decision. The Tribunal found that the Applicant proved that he suffered stress and resulting medical ailments due to the challenged decision.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent's conduct and eventual decision in relation to the selection exercise for JO 87684.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Tribunal ordered the Respondent to pay the Applicant compensation in lieu of rescission of the challenged decision in the amount of 13 months of 22% of the difference between his net base salary at the time of the contested decision, and the amount he would have received had he been selected for the position and one month's net base salary as compensation for stress and the resulting medical ailments.

Full judgment

[Full judgment](#)

Applicants/Appellants

Amineddine

Entity

UNTSO

Case Number(s)

UNDT/NBI/2019/003/R1

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

3 Jul 2020

Duty Judge

Judge Honeywell

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Pecuniary (material) damages

Staff selection (non-selection/non-promotion)

Full and fair consideration

Interview

Selection decision

Applicable Law

UNDT Statute

- Article 10.5

Related Judgments and Orders

UNDT/2019/043

2019-UNAT-962

UNDT/2020/110