

UNDT/2020/145, Danylenko

UNAT Held or UNDT Pronouncements

With regard to GJO No. 425940, the Tribunal found that the Applicant had been notified on 19 February 2014 that his application had been unsuccessful. The Applicant did not request management evaluation of that decision until over four years later. Consequently, the Tribunal held that the claim relating to GJO No. 425940 was not receivable *ratione materiae* and it was dismissed. For GJO No. 76109, the Tribunal held that the Applicant had not satisfied his burden of proof to show through clear and convincing evidence that the Administration did not give his candidacy fair and adequate consideration. Accordingly, the application was dismissed.

Decision Contested or Judgment/Order Appealed

The Applicant contested UNMIL's decision not to clear him for the position of FS-6 during the two job rostering exercises in Generic Job Opening (GJO) No. 425940 in 2013/2014 and GJO No. 76109 in 2017/2018.

Legal Principle(s)

Pursuant to staff rule 11.2(c), a request for a management evaluation shall not be receivable by the Secretary-General unless it is sent within 60 calendar days from the date on which the staff member received the notification of the administrative decision to be contested. Further, as per the settled jurisprudence, the Dispute Tribunal may only review decisions that have been subject of a proper and timely request for management evaluation. According to the jurisprudence of the Tribunal, in staff selection matters, the starting point is the presumption that official functions have been regularly performed. This presumption is satisfied where management minimally shows that the staff member's candidature was given fair and adequate consideration. Once management satisfies this initial requirement, the burden shifts to the Applicant to show through clear and convincing evidence that he was not given fair and adequate consideration.

Outcome

Dismissed on merits

Outcome Extra Text

The claim relating Generic Job Opening No. 425940 was dismissed as not receivable.

Full judgment

[Full judgment](#)

Applicants/Appellants

Danylenko

Entity

UNMIL

Case Number(s)

UNDT/NBI/2018/094

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

13 Aug 2020

Duty Judge
Judge Sikwese
Language of Judgment
English
French
Issuance Type
Judgment
Categories/Subcategories
Staff selection (non-selection/non-promotion)
Applicable Law
Administrative Instructions

- ST/AI/2010/3

Staff Rules

- Rule 11.2

UN Charter

- Article 101

UNDT Statute

- Article 8.1