

UNDT/2020/169, Rao

UNAT Held or UNDT Pronouncements

The two desirable criteria that the Applicant was deemed not to have met were indeed listed in the vacancy announcement for the post. It was therefore legitimate for the Respondent under sec. 7.4 of ST/AI/2020/3 to review the candidates against such criteria and use them to determine which of the candidates were more suitable for the post. The Applicant does not show that the description of her duties and responsibilities in her personal history profile demonstrated to the Hiring Manager that she had the required experience. The Respondent did not abuse his discretion in evaluating the Applicant's candidacy for the post. The Respondent has shown that the procedure was properly followed while the Applicant brought no evidence that she did not receive full and fair consideration. The Management Evaluation Unit is not an independent entity but an advisory mechanism for the Secretary-General who is ultimately responsible for all administrative decisions within the Organization. There is therefore no possible conflict of interest as claimed by the Applicant.

Decision Contested or Judgment/Order Appealed

Non-selection for a post.

Legal Principle(s)

The Secretary-General has broad discretion in matters of staff selection. When reviewing such decisions, the Tribunal shall examine (1) whether the procedure as laid down in the Staff Regulations and Rules was followed and (2) whether the staff member was given fair and adequate consideration. The role of the Tribunals is to assess whether the applicable regulations and rules have been applied and whether they were applied in a fair, transparent and nondiscriminatory manner. The Tribunals' role is not to substitute their decision for that of the Administration. The starting point for judicial review is a presumption that official acts have been regularly performed. If the management is able to minimally show that the applicant's candidature was given a full and fair consideration, the burden of proof shifts to the applicant who then must show through clear and convincing evidence that he or she was denied a fair chance of selection. It is incumbent on a job applicant to show in his or her job application that he or she meets the requirements of the job.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Rao

Entity

DM

Case Number(s)

UNDT/NY/2019/075

Tribunal

UNDT

Registry

New York

Date of Judgement

17 Sep 2020

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

Administrative Instructions

Related Judgments and Orders

2011-UNAT-110

2012-UNAT-265

2017-UNAT-762

2011-UNAT-122

2017-UNAT-771