

UNDT/2020/170, Lackner

UNAT Held or UNDT Pronouncements

The decision to cancel JO 74088 The cancellation of JO 74088 relates to specific organizational needs which, in principle, fall out of the scope of the Tribunal's judicial review and make a challenge against such decision not receivable. The Tribunal recalled that when a selection process is cancelled, there is no administrative decision to contest as it does not fulfill the requirements established by the internal jurisprudence to be considered as such. The decision not to select the Applicant (JO 97210) The Tribunal did not identify any grounds to rescind the decision not to appoint the Applicant to a P-5 position (JO 97210) as he did not provide any evidence of procedural irregularities or bias against him. The Tribunal found that the selected candidate possessed the required experience in anti-corruption, which was essential for the P-5 position, whereas the Applicant lacked said experience and was consequently deemed not to be suitable for the post. The Tribunal highlighted that it is not within the scope of judicial review to question the choices made by the Hiring Manager when there is no evidence of bias or any procedural flaw in the recruitment process.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to cancel job opening 74088 and his non-selection for the subsequently advertised job opening 97210.

Legal Principle(s)

Principle of regularity, that is, if the Respondent is able to even minimally show that an applicant's candidature was given full and fair consideration, then the presumption of law stands satisfied. The burden of proof rests on the Applicant who must show through clear and convincing evidence that he or she was denied a fair chance of promotion.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Lackner

Entity

UNAMA

Case Number(s)

UNDT/GVA/2018/123

Tribunal

UNDT

Registry

Geneva

Date of Judgement

18 Sep 2020

Duty Judge

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Staff selection (non-selection/non-promotion)

Related Judgments and Orders

2018-UNAT-818

2017-UNAT-762