

# UNDT/2020/210, Aung

## UNAT Held or UNDT Pronouncements

The Applicant was placed on special leave with full pay and not separated at the time of the judgment. Therefore, the appeal of the termination decision has not yet produced direct legal consequences to the Applicant's terms of employment and is therefore not receivable. The Applicant did not submit the implied decision not to find him a suitable post for management evaluation, therefore this implied decision is not receivable. The Administration considered the Applicant for a post he applied for along with other candidates in violation of the obligation to consider his suitability on a priority basis outside of the competitive process. However, given that the Applicant did not possess the required experience, the ultimate decision not to find him suitable for the post is lawful and the initial procedural irregularity did not impact the final decision not to select him for the post.

## Decision Contested or Judgment/Order Appealed

Termination of continuing appointment and non-selection for a post

## Legal Principle(s)

An administrative decision can only be judicially reviewed when it produces direct legal consequences for the applicant's terms of appointment. The Administration has an obligation to make reasonable and good faith efforts to find suitable placements for the redundant staff members whose posts are abolished. The Administration must demonstrate that all reasonable efforts were made to place the concerned staff member in an available suitable position. When there is a doubt that the staff member has been afforded reasonable consideration, the Administration must prove that such consideration was given. The Administration must consider the suitability of the redundant staff member for the available post.

## Outcome

Dismissed on merits

Outcome Extra Text

Application rejected

Full judgment

[Full judgment](#)

Applicants/Appellants

Aung

Entity

UNS

Case Number(s)

UNDT/NY/2020/001

Tribunal

UNDT

Registry

New York

Date of Judgement

16 Dec 2020

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Staff selection (non-selection/non-promotion)

Full and fair consideration

Termination (of appointment)

Abolition of position

Applicable Law

UNDT Statute

- Article 8.1(c)

UNAT Statute

- Article 2.1(a)