

UNDT/2020/212, Rockcliffe

UNAT Held or UNDT Pronouncements

The challenge to the contested decision is receivable. The cancellation of JO for the Post was not one of a series of preliminary steps leading to the final administrative decision. Rather, the Administration decided to abolish and reclassify the Post and therefore cancelled the JO in question. Therefore, this was a final administrative decision with regard to the Post and therefore can be reviewed by the Tribunal. The Applicant alleges that a restructuring exercise is a pretext for the cancellation of JO and it was a continued retaliatory act against her, but there is no evidence to conclude that the reclassification of the Post was not a genuine restructuring exercise. The Administration appropriately provided detailed reasons for its request for the reclassification and the Office of Human Resources approved it. The Applicant claims that the decision violated the Secretary-General's instructions to afford her priority consideration for suitable vacancies made in accordance with the Ethics Office's recommendations, but the Administration in fact offered the reclassified Post to her to fulfil its obligations and yet the Applicant rejected the offer.

Decision Contested or Judgment/Order Appealed

The decision to cancel the job opening (JO) for the post the Applicant applied for (Post)

Legal Principle(s)

A selection process involves a series of steps or findings which lead to the administrative decision. These steps may be challenged only in the context of an appeal against the outcome of the selection process, but cannot alone be the subject of an appeal to the Dispute Tribunal. It is well settled jurisprudence that an international organization necessarily has power to restructure some or all of its departments or units, including through the abolition of posts. The Tribunal will not interfere with a genuine organizational restructuring even though it may have resulted in the loss of employment of staff. However, like with any other administrative decision, the Administration has the duty to act fairly, justly and transparently in dealing with staff members. If the applicant claims that the decision was ill-motivated or based on improper motives, the burden of proving any such allegations rests with the applicant.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Rockcliffe

Entity

UNJSPF

Case Number(s)

UNDT/NY/2019/094

Tribunal

UNDT

Registry

New York

Date of Judgement

18 Dec 2020

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)