

UNDT/2020/221, Ular

UNAT Held or UNDT Pronouncements

In the matter of non-selection, it is evident that the Applicant was required to take a test but did not. The Applicant did not explain why she failed to take the test in any terms which show that the Administration must take responsibility for this failure. UNDT held that the Applicant must take responsibility for this failure and therefore can blame no-one other than herself for the non-selection. UNDT dismissed this aspect of the Application. UNDT held that the finding that there was insufficient evidence to pursue the matter of sexual harassment tantamounts to abuse of authority on the part of the Respondent. UNDT ordered the Respondent to provide the Applicant with a clear explanation for the decision not to pursue the allegation of sexual harassment in one month. UNDT dismissed the claim for moral damages as the required evidence needed to support the imposition of other remedies sought by the Applicant was not provided.

Decision Contested or Judgment/Order Appealed

The Applicant contested decisions she described as: “(a) continued harassment, unfair treatment and abuse of authority that cannot be classified as one single decision; (b) breach of several rules and regulations; (c) not being considered and bypassed for promotion on several occasions resting with a decision made on 22 January 2019; (d) not being compensated for work performed at a higher level; and (e) failure to address a claim for sexual harassment and abuse.”

Legal Principle(s)

The seriousness of a charge, such as sexual harassment, requires that the Administration at the very least show that there was a process involved in which the Applicant was properly informed and able to comment to correct perceptions of fact or interpretations of staff rules.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Ular

Entity

Other Agency/Fund/Programme/UN Entity

Case Number(s)

UNDT/NBI/2019/46

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

31 Dec 2020

Duty Judge

Judge Belle

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Abuse of authority

Sexual harassment

Management Evaluation

Delayed response

Staff selection (non-selection/non-promotion)

Written test

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5