

2011-UNAT-110, Abbassi

UNAT Held or UNDT Pronouncements

The staff member appealed on the ground that UNDT had made errors of fact in the judgment. UNAT recalled that in order to overturn a finding of fact, UNAT must be satisfied that the finding is not supported by the evidence or that it is unreasonable. Some degree of deference should be given to the factual findings by UNDT as the court of first instance, particularly where oral evidence is heard. UNAT dismissed the appeal finding that there were no grounds for overturning the UNDT's findings of fact and that no other reversible errors were made.

Decision Contested or Judgment/Order Appealed

The staff member challenged the decision not to select her for the post of P-4 Arabic Reviser on the ground that the selection procedure for the consideration of 15-day and 30-day candidates was not followed. UNDT found that the selection procedure was followed and that the staff member, a 15-day candidate, was considered and found unsuitable for the post before the 30-day candidates were considered. Having found that the staff member's right to be assessed fairly and adequately had been satisfied and because she had not been found suitable for the post, UNDT concluded that there was no error in not selecting her and in interviewing the 30-day candidates. UNDT dismissed the application.

Legal Principle(s)

In reviewing administrative decisions regarding appointments and promotions, UNDT examines the following: (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 Secretary-General has broad discretion in making decisions regarding promotions and appointments. In reviewing such decisions, it is not the role of UNDT or of UNAT to substitute its own decision for that

of the Secretary-General regarding the outcome of the selection process.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Abbassi

Entity

DGACM

Case Number(s)

2010-105

Tribunal

UNAT

Registry

New York

Date of Judgement

11 Mar 2011

President Judge

Judge Adinyira

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Staff selection (non-selection/non-promotion)

Full and fair consideration

Standard of review (judicial)

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2006/3

UNAT Statute

- Article 2.1(e)

Related Judgments and Orders

UNDT/2010/086