

2011-UNAT-122, Rolland

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by Ms Rolland and a cross-appeal against the award of damages by the Secretary-General. UNAT held that the selection process conducted by an interview panel can be rescinded under rare circumstances. UNAT noted that, in general, when candidates have received fair consideration, discrimination and bias are absent, proper procedures have been followed, and all relevant material has been taken into consideration, the selection shall be upheld. UNAT held that Ms Rolland failed to discharge the burden of proof, by showing through clear and convincing evidence that she was denied a fair chance of promotion. UNAT held that Ms Rolland did not show that the procedural lapses by UNDT in only being able to provide a short recording of the hearing, and not the entire recording or a transcript, affected the decision or the final outcome. UNAT held that failure of notification of non-selection may have a serious impact on the future career development of a staff member and that the award of damages, though nominal, was just and fair. UNAT dismissed both the appeal and the cross-appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to select her for three vacant posts for which she was considered. UNDT dismissed the application but awarded USD 500 as nominal damages for the Administration's failure to notify her of her non-selection.

Legal Principle(s)

UNDT possesses jurisdiction to rescind a selection or promotion decision but may do so only under extremely rare circumstances. All candidates before an interview panel have the right to full and fair consideration. The presumption of regularity is a rebuttable presumption; if management is able to show, even minimally, that the Appellant's candidature was given full and fair consideration, then the presumption stands satisfied and thereafter, the burden of proof shifts to the Appellant.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Rolland

Entity

DFS

Case Number(s)

2010-119

Tribunal

UNAT

Registry

New York

Date of Judgement

11 Mar 2011

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

Administrative Instructions

- ST/AI/2006/3

UNAT Statute

- Article 2

Related Judgments and Orders

UNDT/2010/095