

2011-UNAT-175, Dualeh

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that Mr Dualeh was not promoted as a result of the fact that the other candidates had scored higher than he had and he would not have been promoted even if the other candidates had not been promoted. UNAT held that the procedural irregularity had no impact on his non-promotion. UNAT held that the direct effect of an irregularity will only result in the rescission of the decision not to promote a staff member when he or she would have had a significant chance of promotion. UNAT held that UNDT should neither have rescinded the decision nor awarded compensation. UNAT granted the appeal and reversed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to promote him. On the basis of a procedural irregularity, UNDT ordered rescission of the decision or compensation in lieu.

Legal Principle(s)

An irregularity in a promotion procedure will only result in the rescission of the decision not to promote an appellant when he or she had a significant chance of promotion.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Dualeh

Entity

UNHCR

Case Number(s)

2010-176

Tribunal

UNAT

Registry

New York

Date of Judgement

21 Oct 2011

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Staff selection (non-selection/non-promotion)

Related Judgments and Orders

UNDT/2010/187