

# 2013-UNAT-283, Charles

## UNAT Held or UNDT Pronouncements

On the issue of the UNDT's decision not to take up the Appellant's motion for disclosure of documents, UNAT held that the Appellant failed to demonstrate how this affected his rights or would have had a relevant impact on the evidence already collected, the basic facts of which were not contested, and therefore UNAT held there were no procedural grounds to vacate the judgment. On the merits, UNAT held that the Appellant had not established any error of fact or law that warranted reversal of the judgment. UNAT recalled that not every violation of due process led to an award of compensation. UNAT held that it agreed with the UNDT's determination that the Appellant had no chance of being promoted since the Appellant did not have the requisite years of experience for the positions. UNAT held that the errors committed by the Respondent did not deprive the Appellant of a real opportunity to be promoted or even included in the roster. UNAT dismissed the appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Appellant contested his non-selection for two positions. UNDT noted that the Secretary-General had conceded that there was an error in the selection exercise in the order in which the Applicant was considered as a 30-day candidate since he should have been considered before the 60-day mark. UNDT found that this constituted a procedural breach but concluded that the Applicant had not suffered harm as a result of the breach as he did not have the required experience for the positions and had no prospect of selection.

## Legal Principle(s)

It is not enough to demonstrate illegality to obtain compensation; the claimant bears the burden of proof to establish the existence of negative consequences, able to be considered damages, resulting from the illegality. Not every violation of due process will necessarily lead to an award of compensation.

## Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Charles

Entity

DM

Case Number(s)

2012-309

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Mar 2013

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Due process

Staff selection (non-selection/non-promotion)

Eligibility

Related Judgments and Orders

UNDT/2012/020

2012-UNAT-277

2010-UNAT-042