

# **2014-UNAT-450, Bali**

## UNAT Held or UNDT Pronouncements

UNAT considered the Secretary-General's appeal and noted that the Secretary-General has broad discretion in matters of staff selection. UNAT found that the extensive correspondence between Mr Bali and management indicated that he was aware that his candidature would be considered along with all other applicants, and that his name was placed on a roster of pre-approved candidates for potential consideration for future job openings with similar functions at the Secretariat. UNAT also noted that Mr Bali was encouraged by the Office of Human Resources Management's (OHRM) advocacy and information management branch to actively apply for other positions advertised on OHRM's job portal. UNAT held that the Secretary-General applied the specific Regulations and Rules in a fair, transparent and non-discriminatory manner. UNAT upheld the appeal and vacated the UNDT judgment.

Accountability referral: UNAT vacated the UNDT referral for possible action to enforce accountability.

## Decision Contested or Judgment/Order Appealed

Mr Bali contested the decision to terminate his appointment. UNDT found that the termination decision was taken without the requisite delegated authority. UNDT ordered rescission of the decision to separate Mr Bali from service and his reinstatement, or in the alternative, two years' net base salary. UNDT further awarded Mr Bali one year's net base salary for substantive irregularity and four months' net base salary for procedural irregularity. UNDT also referred two staff members to the Secretary-General for accountability for alleged improprieties in the course of the comparative review.

## Legal Principle(s)

An international organisation necessarily has the power to restructure some or all of its departments or units, including the abolition of posts, the creation of new posts and the redeployment of staff. The Secretary-General has broad discretion in matters of staff selection and, in reviewing such decisions, it is the role of UNDT or UNAT to assess whether the applicable Regulations and Rules have been applied and whether they have been applied in a fair, transparent and non-discriminatory manner. The Tribunals' role is not to substitute their decision for that of the Administration.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Bali

## Entity

UNMIS

## Case Number(s)

2013-519

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

27 Jun 2014

## President Judge

Judge Weinberg de Roca

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Referral for accountability

## Applicable Law

Staff Regulations

- Regulation 1.2(c)
- Regulation 4.1

UN Charter

- Article 101.1

## Related Judgments and Orders

UNDT/2013/094

2012-UNAT-265

2013-UNAT-281

UNDT/2011/155