

2015-UNAT-595, Survo

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by Mr Survo and an appeal by the Secretary-General. UNAT held that UNDT had not erred in the procedure, including in its findings regarding receivability. UNAT held that UNDT had not erred in law in relation to the matters raised by Mr Survo. UNAT held that UNDT had not erred on a question of fact such as to render the decision of UNDT manifestly unreasonable. On the Secretary-General's appeal of the Special Post Allowance (SPA) issue, UNAT held that UNAT had no primary legal or factual basis from which it could conclude that Mr Survo had properly sought management evaluation of a request for SPA where there had not, in fact, been such a request in the first place. UNAT held that UNDT erred and exceeded its competence in purporting to review the issue of a SPA payment, in the absence of Mr Survo ever having first requested SPA and thereafter having properly sought management evaluation. UNAT held that the receipt of the SPA issued by UNDT and the remedy ordered by UNDT did not have a valid legal or factual basis. UNAT dismissed Mr Survo's appeal, upheld the appeal of the Secretary-General, and affirmed the UNDT judgment with the exception of the part which related to the issue of the SPA, which was vacated.

Decision Contested or Judgment/Order Appealed

Mr Survo contested the decisions not to select him for two P-5 level posts and the decision not to reclassify his P-4 level post to the P-5 level. UNDT found that the non-selection of Mr Survo for one of the posts and the refusal to reclassify his post were both not receivable and that his non-selection for the other post was receivable, but without merit. UNDT remanded the issue of whether Mr Survo was eligible for a special post allowance (SPA) to the Administration for full and fair consideration. UNDT rejected Mr Survo's claims concerning abuse of authority.

Legal Principle(s)

UNDT has broad discretion as to how it conducts its proceedings. In order to establish that the judge erred in not admitting evidence, it is necessary to establish that the evidence, if admitted, would have led to different findings of fact and changed the outcome of the case. While UNDT has the inherent authority to individualise and define the administrative decision impugned by a party in a specific case, the UNDT is not at large in this regard.

Outcome

Appeal dismissed on merits; Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Survo

Entity

ESCAP

Case Number(s)

2015-693

2015-695

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2015

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45
Special Post Allowance
Jurisdiction / receivability (UNDT or first instance)
Subject matter (ratione materiae)
Staff selection (non-selection/non-promotion)
Selection decision

Applicable Law

UNAT RoP

- Article 18.1

UNAT Statute

- Article 8.3

UNDT RoP

- Article 18
- Article 19

Related Judgments and Orders

UNDT/2014/144
2012-UNAT-238

2011-UNAT-122
2015-UNAT-556
2012-UNAT-265
2011-UNAT-110
2013-UNAT-299
2013-UNAT-300
2015-UNAT-521
2015-UNAT-564
2013-UNAT-281
2015-UNAT-529
2015-UNAT-546
2011-UNAT-107