

2016-UNAT-636, Cicek

UNAT Held or UNDT Pronouncements

UNAT rejected the request for an oral hearing finding that the factual and legal issues arising from the appeal had already been clearly defined by the parties and there was no need for further clarification. UNAT rejected the motion to file additional pleadings and evidence since the Appellant had failed to demonstrate the existence of any exceptional circumstances that justified the need to file additional pleadings or to submit additional evidence. UNAT held that the motion only presented factual and legal contentions that reiterated arguments made in the appeal brief. UNAT further held that the Appellant had failed in his grounds of appeal to identify any errors of fact, law, jurisdiction, procedure, or competence on the part of UNDT. UNAT upheld the reasoning of UNDT that the fact that the Applicant took the written test and underwent the interview for the Position did not confer him any legal entitlement or legitimate expectation. UNAT held that the Appellant had just repeated the arguments presented before UNDT and that the appeal had no merit. UNAT held that in instances where the eligibility criteria for a post have been wrongly applied, the Administration has a duty and is entitled to rectify its own error. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision advising that he was ineligible for the National Professional Officer (NPO) post and was thus excluded from the recruitment process for the Position because he allegedly lacked sufficient relevant experience. UNDT found that the Administration had correctly assessed and calculated the Applicant's relevant professional experience. UNDT found that there was no evidence that the new Chief Civilian Personnel Officer's evaluation of the Applicant's work experience was biased or that she intended to exclude him from the recruitment process. UNDT found that the Applicant did not have any legal entitlement or legitimate expectation to be awarded the Position just because he had taken the written test and had been interviewed. UNDT further rejected all other claims. The Applicant appealed.

Legal Principle(s)

In situations where the Administration finds that it has made an unlawful decision or an illegal commitment, it is entitled to remedy that situation. The interests of justice require that the Secretary-General should retain the discretion to correct erroneous decisions, as to deny such an entitlement would be contrary to both the interests of staff members and the Administration. How the Secretary-General's discretion should be exercised will necessarily depend on the circumstances of any given case. When responsibility lies with the Administration for the unlawful decision, it must take upon itself the responsibility therefore and act with due expedition once alerted to the unlawful act.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Cicek

Entity

UNFICYP

Case Number(s)

2015-845

Tribunal

UNAT

Registry

New York

Date of Judgement

24 Mar 2016

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Evidence

Production of evidence

Procedure (first instance and UNAT)

Admissibility of evidence

Oral hearings

Staff selection (non-selection/non-promotion)

Eligibility

Selection decision

Applicable Law

UNAT RoP

- Article 10.1
- Article 18.1
- Article 31.1

UNAT Statute

- Article 8.3

Related Judgments and Orders

UNDT/2015/043

2015-UNAT-576

2015-UNAT-542

2015-UNAT-524

2014-UNAT-481

2010-UNAT-051

2013-UNAT-367