

2016-UNAT-642, Savadogo

UNAT Held or UNDT Pronouncements

UNAT rejected the Appellant's request for an oral hearing and production of documents, to substantiate his claims of bias and discrimination against him, finding that a complaint of bias and discrimination was not receivable as it consisted of a series of past issues in respect of which he should have sought redress at the appropriate time. UNAT stressed that it was not the task of the JAB or UNAT to conduct a fresh investigation. UNAT rejected the motion for submission of additional documentation, finding no need for further evidence pursuant to Article 10. 1 of the UNAT RoP and no exceptional circumstances to grant the request. On the merit of the Appeal, UNAT was satisfied that 1) JAB was guided by the procedure as laid down in the Staff Regulations and Rules; 2) that the staff member was given fair and adequate consideration; 3) that the applicable Regulations and Rules were applied in a fair, transparent and non-discriminatory manner. UNAT affirmed the JAB's findings regarding the procedural violation of not conducting two interviews with the shortlisted candidates and the awarded compensation. UNAT held that given the limited nature of the procedural violation, and the fact that it did not lead to any discrimination among the candidates, a decision to nullify the selection exercise would be disproportionate. UNAT held that JAB was, thus, justified in recommending the payment of compensation for the procedural violation instead of a rescission of the selection decision. UNAT concluded that it would not interfere with the Registrar's decision to adopt the recommendation of the JAB to compensate the Appellant in the amount of USD 3,000. UNAT dismissed the appeal and affirmed the Registrar's decision to adopt the recommendation of JAB.

Decision Contested or Judgment/Order Appealed

Registrar of ITLOS' decision: The Applicant filed an appeal with the JAB of the Registrar's decision affirming his earlier decision not to promote the Applicant to the P-5 level. JAB held that the appeal was receivable regarding the decision not to select him for the P-5 post. JAB found that the staff member's due process rights had

been violated during the selection process for the P-5 post and unanimously recommended awarding him compensation for the due process violation. JAB found that the ITLOS Administration had deviated from the requirements of Administrative Instruction ITLOS/AI/06/11, in that only one interview, instead of two, had been held with the staff member and all other shortlisted candidates. JAB also reviewed the other issues raised by the staff member in connection with the P-5 selection process, including the Registrar's participation in the selection process, the establishment of the shortlist, the conduct of the written tests and interviews, the expectancy of promotion, and bias, and discrimination, but found them to be without merit. The Registrar accepted the JAB recommendation.

Legal Principle(s)

By the structure of the internal justice system under the Staff Regulations of ITLOS, employees go through two internal phases, i. e. , the Conciliation Committee and the JAB, before appealing to UNAT. UNAT's Statute and Rules are applicable, in the exercise of the UNAT's jurisdiction, to appeals from an ITLOS staff member directed against a decision taken by an executive authority of ITLOS.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Savadogo

Entity

ITLOS

Case Number(s)

2015-851

Tribunal

UNAT

Registry

New York

Date of Judgement

24 Mar 2016

President Judge

Judge Adinyira

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Discrimination and other improper motives

Bias/favouritism

Jurisdiction / receivability (UNAT)

Appeal

Procedure (first instance and UNAT)

Oral hearings

Production of documents

Staff selection (non-selection/non-promotion)

Interview

Applicable Law

Laws of other entities (rules, regulations etc.)

- ITLOS Administrative Instructions

UN Charter

- Article 57
- Article 63

UNAT RoP

- Article 10.1
- Article 15

UNAT Statute

- Article 2.10

Related Judgments and Orders

2010-UNAT-051

2014-UNAT-458

2013-UNAT-340

2011-UNAT-122

2014-UNAT-397

2012-UNAT-265

2012-UNAT-216

2015-UNAT-498

2012-UNAT-231

2011-UNAT-110