

2017-UNAT-771, Al-Mussader

UNAT Held or UNDT Pronouncements

UNAT held that UNRWA DT did not make any errors of law or fact in dismissing the Appellant's application. UNAT found no reason to differ from the conclusion of UNRWA DT, that UNRWA could not have considered the Appellant as having the requisite international experience. UNAT held that UNRWA DT gave careful and fair consideration to the Appellant's arguments regarding the required international experience for the post. UNAT held that the Appellant failed to discharge his burden of proving through clear and convincing evidence that he was denied a fair chance of selection. UNAT held that the selection exercise should be based on the assessment of the candidates' academic qualifications and work experience as set out in the vacancy announcement. UNAT held that the two years of international experience outside the duty station of the post was stipulated as the minimum experience requirement for international posts and that the job description and vacancy announcement can set out, in addition, the desirable qualifications and experience which the hiring manager should consider in the selection of candidates. UNAT held as unfounded the Appellant's contention that UNRWA DT erred by not finding that the requirement for experience outside one's home country was discriminatory and arbitrary. UNAT held that the issues raised by the Appellant which were not raised before UNRWA DT were not receivable. UNAT held that the Appellant failed to establish that UNRWA DT committed errors on questions of facts and law such as to warrant a reversal of its judgment. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested his non-selection for a position. UNRWA DT dismissed the application on its merits.

Legal Principle(s)

The Tribunals' role is not to substitute their decision for that of the Administration. All candidates before an interview panel have the right to full and fair consideration. The presumption of regularity is rebuttable. Issues raised by an Appellant that were not raised before the first-instance tribunal are not receivable on appeal.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Al-Mussader

Entity

UNRWA

Case Number(s)

2017-1051

Tribunal

UNAT

Registry

New York

Date of Judgement

14 Jul 2017

President Judge

Judge Raikos

Language of Judgment

Arabic

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Staff selection (non-selection/non-promotion)

Eligibility

Full and fair consideration

Selection decision

Applicable Law

UNAT Statute

- Article 2.1(e)