

2017-UNAT-785, Smith

UNAT Held or UNDT Pronouncements

UNAT held that the Secretary-General had the lawful authority to impose such a restriction, which objectively furthered the operational purposes of efficiency and short-term convenience and was proportional in its effects. UNAT held that the decision of the Administration to limit the appointment to UNMISS staff members was reasonable and that there was insufficient evidence to support a finding of discrimination or improper motive. Accordingly, UNAT vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision that he was not eligible for the TJO he applied for since the TJO was advertised internally within the UN Mission in the Republic of South Sudan (UNMISS) and was, therefore, only open to UNMISS' staff. UNDT found that the decision to consider the staff member ineligible for the TJO was unlawful and breached his right to be fully and fairly considered. Since the TJO stated that it was open to internal candidates, it was open to all internal candidates (not only UNMISS staff members), including the staff member. UNDT awarded moral damages, finding that the staff member's prospects for career development and opportunities for professional growth were reduced by the restriction.

Legal Principle(s)

Temporary job openings (TJO) limiting recruitment to staff members at a particular duty station or mission may be lawful.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Smith

Entity

DFS

Case Number(s)

2017-1067

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Oct 2017

President Judge

Judge Murphy

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Temporary appointment

Staff selection (non-selection/non-promotion)

Eligibility

Applicable Law

Administrative Instructions

- ST/AI/2010/4/Rev.1

GA Resolutions

- A/RES/63/250

Staff Rules

- Rule 4.12

UN Charter

- Article 101.3

Related Judgments and Orders

UNDT/2017/003

2015-UNAT-527

2015-UNAT-556

2016-UNAT-652