

2017-UNAT-792, Chhikara

UNAT Held or UNDT Pronouncements

UNAT considered appeals from both the Secretary-General and Mr Chhikara. UNAT held that UNDT erred when it considered that it did not need the missing evidence of the 25 situation questions and their “key” answers, which directly related to the written test which Mr Chhikara failed. UNAT held that, by rejecting Mr Chhikara’s request for the missing evidence and judging the case without it, UNDT failed to exercise the jurisdiction vested in it and also committed an error in procedure such as to affect the decision of the case. UNAT noted that the interests of justice and judicial economy may be served by UNDT establishing standard rules of evidence and discovery motion practice; and further, that when UNDT compels production, it should require full compliance. UNAT partially granted the appeals, remanded the consolidated case to UNDT for additional findings of fact, and to be judged anew by the same Judge after affording the parties an opportunity to comment on the new evidence, and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Mr Chhikara contested his non-selection for a position. UNDT granted the application in part. UNDT found a number of procedural irregularities and that Mr Chhikara’s right to be fully and fairly considered for the post had been breached because he was unlawfully filtered out based on unapproved pre-screening questions and was not directly evaluated by the Panel. UNDT concluded that rescission of the decision would be disproportionate and awarded Mr Chhikara compensation for the procedural violations.

Legal Principle(s)

Relevant evidence should be presented to UNDT. When UNDT compels the production of evidence, it should require full compliance with its order.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Chhikara

Entity

MONUSCO

Case Number(s)

2017-1076

2017-1079

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Oct 2017

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Procedure (first instance and UNAT)

Production of documents

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Written test

Applicable Law

Administrative Instructions

- ST/AI/2010/3

UNAT Statute

- Article 2.4(b)

Related Judgments and Orders

UNDT/2017/012