2017-UNAT-793, Muhsen

UNAT Held or UNDT Pronouncements

UNAT held that the appeal was defective in that it failed to invoke the jurisdiction of UNAT under Article 2(1) of the UNAT Statute by not asserting that UNDT had either exceeded its jurisdiction or competence, failed to exercise its jurisdiction, erred on a question of law, committed an error of procedure, such as to affect the decision of the case, or erred a question of fact, resulting in a manifestly unreasonable decision. UNAT held that the Appellant also failed to comply with the requirements of Article 8(2) of the UNAT RoP by not providing a brief explaining the legal basis of any of the five grounds of appeal. UNAT held that the Appellant failed to meet his burden. UNAT held that he could not invoke ignorance as an excuse for not being aware of the applicable procedure for recourse within the system of administration of justice. UNAT held that UNDT did not make any error of law or fact in holding that the application was not receivable. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to promote him. UNDT held that the application was not receivable because the Applicant had not requested management evaluation.

Legal Principle(s)

An appellant has the burden of satisfying UNAT that the judgment rendered by UNDT was defective. The appellant must identify the alleged defects and state the grounds relied on by asserting that the judgment is defective; it is not sufficient for an appellant to state that he or she disagrees with the outcome of the case or repeat the arguments submitted before UNDT. It is a staff member’s responsibility to ensure that he or she is aware of the applicable procedure in the context of the

administration of justice of the UN; he or she cannot invoke ignorance as an excuse.

Outcome

Appeal dismissed on merits

Full judgment

Full judgment

Applicants/Appellants

Muhsen

Entity

UNHCR

Case Number(s)

2017-1077

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Oct 2017

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)
Management Evaluation
Subject matter (ratione materiae)

Applicable Law

Staff Rules

- Rule 11.2(a)
- Rule 11.2(c)

UNAT RoP

- Article 8.2

UNAT Statute

- Article 2.1

UNDT Statute

- Article 8.3

Related Judgments and Orders

UNDT/2017/015