

2018-UNAT-857, Clemente

UNAT Held or UNDT Pronouncements

UNAT held that the Appellant failed to challenge the decision that denied the reclassification of her post from a G-8 to a P-2 position within the deadlines of the ICAO Staff Rules 111. 1(7) and 111. 1(5), confirming AJAB's finding. UNAT held that there is no obligation of the ICAO Secretary-General to provide a staff member with guidance on the appeals procedure and to advise regarding the time limits. UNAT held that it does not have jurisdiction to address the merits of the claims the Appellant raises on appeal against the decision that her post was incorrectly classified at the G-8 level. UNAT held that the Appellant had failed to demonstrate that the AJAB erred in any way in finding that the ICAO Secretary-General's granting of a personal promotion from the G-8 to G-9 level was in accordance with the personal promotions policy. UNAT held that the Appellant had not established any error in the AJAB's decisions that she was not eligible to receive a second personal promotion to the P-2 level, and that, in any event, she had no right to such promotion. UNAT held that the Appellant had failed to establish any error, whether of fact, law, or procedure, in the findings of AJAB. UNAT dismissed the appeal and affirmed the ICAO Secretary-General's decision to accept AJAB's unanimous recommendation.

Decision Contested or Judgment/Order Appealed

The Applicant requested a review of a personal promotion decision by the ICAO Secretary-General, which also entailed the reclassification of her post. The Advisory Joint Appeals Board (AJAB) found that the Applicant failed to timely request review of the Secretary-General's decision on the proper classification of her post. AJAB found that a personal promotion from G-8 to G-9 was consistent with ICAO's personal promotion policy. AJAB found that the Applicant was neither eligible to receive a second personal promotion to P-2 level nor had any right to such a promotion. The ICAO Secretary-General accepted AJAB's recommendation and rejected the request.

Legal Principle(s)

Staff members are presumed to know the regulations and rules applicable to them and cannot rely on ignorance as an excuse. ICAO Staff Rule 111. 1(2) does not oblige the ICAO Secretary-General to provide a staff member with guidance on the appeals procedure. The administrative review by ICAO is the equivalent of management evaluation under Article 7. 3 of the UNAT Statute, and Article 7. 3 must be interpreted in the same manner as Article 8. 3 of the UNDT Statute.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Clemente

Entity

ICAO

Case Number(s)

2018-1147

Tribunal
UNAT
Registry
New York
Date of Judgement
29 Jun 2018
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Classification (post)
Jurisdiction / receivability (UNAT)
Temporal (ratione temporis)
Applicable Law
ICAO Staff Rules

- Rule 111.1(2)
- Rule 111.1(5)
- Rule 111.1.(8)

UNAT Statute

- Article 2.1(e)
- Article 7.3

UNDT Statute

- Article 8.3

Related Judgments and Orders

2010-UNAT-036
2010-UNAT-074
2011-UNAT-108
2013-UNAT-376
2012-UNAT-260
2014-UNAT-472