

2018-UNAT-880, Munyan

UNAT Held or UNDT Pronouncements

UNAT considered the appeal by the Secretary-General. UNAT held that the Secretary-General's appeal was in direct conflict with his submissions to UNDT. While the Secretary-General acknowledged procedural irregularities by the Hiring Manager to UNDT, in his appeal he argued that no irregularities happened in removing the Applicant's name from the list and that the Hiring Manager was entitled to exercise her discretion and correct her mistakes after further assessing the candidate's qualifications. UNAT held that no evidence was presented to UNDT of a second assessment by the Hiring Manager or that a mistake was being corrected. UNAT found no error in the UNDT's finding that the removal of the Applicant's name from the list without further examining the qualifications was a procedural irregularity, as conceded by the Secretary-General in the UNDT hearing. UNAT held that it is not admissible for the Secretary-General to introduce new grounds of appeal which were not part of his case before the UNDT and that the submissions contesting the compensation awarded to the Applicant were entirely without merit. UNAT held that the Secretary-General, in presenting on appeal factual and legal arguments which directly contradicted his submissions to UNDT, had manifestly abused the appeals process. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to not recommend him for the post and not to place him on the roster of pre-approved candidates for openings with similar functions at the same level. UNDT found that the contested decision was flawed, the Organisation having failed to minimally show that the candidacy had been fully and fairly considered, and therefore the decisions not to select him for the post and/or place him on the roster were unlawful. UNDT ordered rescission of the contested decisions or, alternatively, a pecuniary compensation.

Legal Principle(s)

It is not admissible for the Secretary-General to introduce new grounds of appeal which were not part of his case before UNDT. Article 10. 5(a) of the UNDT Statute creates a mandatory requirement upon UNDT to set an amount of compensation as an alternative to an order rescinding a decision concerning an appointment, promotion, or termination.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Munyan

Entity

UNCTAD

Case Number(s)

2018-1173

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Oct 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

In-lieu compensation

Staff selection (non-selection/non-promotion)

Eligibility

Full and fair consideration

Selection decision

Applicable Law

Administrative Instructions

- ST/AI/2010/3

UNAT Statute

- Article 2.5

UNDT Statute

- Article 10.5(b)

Related Judgments and Orders

UNDT/2018/028