

2019-UNAT-944, Ross

UNAT Held or UNDT Pronouncements

UNAT dismissed the Appellant's motion for leave to file additional pleadings on the basis that he had not demonstrated any exceptional circumstances. UNAT rejected the Appellant's request for costs as there was no reason to believe that the submissions of the Secretary-General were not made in good faith or were an abuse of process. UNAT held that the Appellant did not have a right to promotion but only a right to be considered for promotion. UNAT held that the Appellant received full and fair consideration for the position. UNAT also affirmed UNDT's application of the priority consideration principle in which such consideration cannot be interpreted as a promise or guarantee to be appointed or receive what one is considered in priority for; and that to hold otherwise would compromise the highest standards of efficiency, competency, and integrity required in selecting the best candidate for staff positions under Article 101 of the Charter. UNAT held that, in the absence of evidence to support the Appellant's contention of improper motive or discrimination, that ground of appeal failed. UNAT upheld and affirmed the UNDT's reasoning with respect to the Appellant's claim for reinstatement in the service of UNHCR, agreeing that there was no causal link between such a claim and the selection process. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant was considered for a promotion. He was not selected initially and then received an offer to recommend him for the position, which he declined. The Applicant challenged the decision not to appoint him to the position. UNDT found that the Applicant had received full and fair consideration for the position and dismissed the application.

Legal Principle(s)

A staff member has a right to be fully and fairly considered for promotion through a competitive selection process untainted by improper motives like bias or discrimination. A candidate has no right to promotion. Priority consideration cannot be interpreted as a promise or guarantee to be appointed.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ross

Entity

UNHCR

Case Number(s)

2019-1242

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jun 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNAT Practice Direction No.1

UN Charter

- Article 101

UNAT RoP

- Article 31.1

UNAT Statute

- Article 9.2

Related Judgments and Orders

UNDT/2019/005