

2021-UNAT-1168, Vladislav Krioutchkov

UNAT Held or UNDT Pronouncements

Starting with the presumption that official acts are regularly performed, UNAT agreed that the Administration acted in accordance with the Staff Regulations and Rules when it invited three roster candidates for an informal interview and made a final selection from the roster. Given the presumption of regularity was satisfied, the burden of proof shifted on the staff member who must demonstrate that he was not given fair and adequate consideration. This, the staff member failed to do. UNAT also agreed with the UNDT that the staff member can only challenge a specific administrative decision, and not an alleged general administrative practice. Additionally, UNAT also found that the selected candidate was chosen for the specific skills she possessed, and not because of an alleged general administrative practice favoring candidates working at headquarters. UNAT thus found no bias in the staff member's non-selection and there were no errors in the recruitment process, notably conducting the informal interview in Russian was reasonable considering the job required a "perfect command" of Russian. Finding no error in the UNDT Judgment, the appeal was dismissed.

Decision Contested or Judgment/Order Appealed

A staff member serving as a Russian Translator at the P-3 level with ESCAP applied to the post of Russian Reviser at the P-4 level with UNOV. The Hiring Manager invited three roster candidates for an informal interview, and following such, one of the roster candidates was selected. The staff member challenged his non-selection arguing he was not treated fairly and that the Administration committed several errors during the recruitment process. UNDT rejected the staff member's application, finding that he was given full and fair consideration and that there was no ulterior motive in his non-selection. UNDT also dismissed the applicant's claims that it was improper to conduct the informal interview in Russian and that there was purportedly a pattern of discrimination, favoring applicants coming from the Department for General Assembly and Conference Management (DGACM). The tribunal finally also concluded that there is no entitlement to receive a promotion and a staff member can only challenge a specific administrative decision, not an alleged general administrative practice.

Legal Principle(s)

Given the presumption of regularity, if the Administration can minimally show that a staff member was given full and fair consideration, the burden of proof shifts on the staff member who must show through clear and convincing evidence that he was denied a promotion. Conducting an informal interview in a language that is required for a post is reasonable. A staff member must challenge a specific administrative decision, not an alleged general administrative practice. There is no expectancy or entitlement to a promotion.

Outcome

Appeal dismissed on merits

Outcome Extra Text

Appeal dismissed, and UNDT Judgment affirmed.

Full judgment

[Full judgment](#)

Applicants/Appellants

Vladislav Krioutchkov

Entity

ESCAP

Case Number(s)

2020-1482

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Oct 2021

President Judge

Judge Neven

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Burden of proof

Non-disciplinary

Discrimination and other improper motives

Bias/favouritism

Staff selection (non-selection/non-promotion)

Full and fair consideration

Interview

Selection decision

Standard of proof

Standard of proof

Non-disciplinary

Applicable Law

Administrative Instructions

- ST/AI/2010/3

Staff Regulations

- Regulation 1.2

Related Judgments and Orders

UNDT/2020/160