

UNDT/2021/159, YOUNIS

UNAT Held or UNDT Pronouncements

The Tribunal ruled that the assertion that the Applicant was entitled to automatic appointment since he had a continuous appointment and was on the roster for Senior Transport Officer, P-5 was without basis. The Tribunal agreed with the Respondent that the obligation under staff rule 9.6(e) is only triggered where there has been a decision to terminate a staff member's appointment due to the abolition of a post or the reduction of staff. The Tribunal found that the provisions of staff rule 9.6(e) were not applicable to the circumstances of this case and could therefore not be complied with. The Tribunal found no evidence that the Applicant met and exceeded the requisite skills and qualifications for the position as announced in the vacancy announcement. And, there was no evidence that the responsible officers manipulated the system by falsifying the Applicant's experience in order to clear and select their favorite candidate. The applicable Staff Regulations and Rules were applied in a fair, transparent and non-discriminatory manner. The burden of proving any allegations of ill motivation or extraneous factors rests with the Applicant. The Applicant failed to substantiate the allegation of ulterior motive.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the decision not to select him for the position of P-5 Chief of Section, Transport, with the United Nations Support Office in Somalia ("UNSOS") in Mogadishu advertised through Position-Specific Job Opening ("PSJO") No.122057.

Legal Principle(s)

There is a presumption that official acts have been regularly performed. Following a minimal showing by the Administration that the candidacy of a staff member was given full and fair consideration, the burden of proof shifts to the applicant, who must show through clear and convincing evidence that he or she was denied a fair chance of appointment. The Tribunal's role is not to substitute its decision for that of the administration. the mere fact that a staff member is on a roster does not entitle them to be selected for any job opening that may be advertised. A short-listed candidate has a chance of selection and therefore has standing to challenge the qualifications of the selected candidate in support of his own interest in the vacancy.

Outcome

Dismissed on merits

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

YOUNIS

Entity

UNAMID

Case Number(s)

UNDT/NBI/2020/84

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

23 Dec 2021

Duty Judge

Judge Tibulya

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Staff Rules

- Rule 9.6(e)