

2022-UNAT-1250, Giuseppe Belsito

UNAT Held or UNDT Pronouncements

UNAT held that the undisputed breach of confidentiality in the selection process provided rational grounds for the cancellation decision. UNAT held that the fact that the Appellant had access to information about his test score and that he was perhaps seeking to influence the decision through the hiring manager, rendered the selection exercise problematic and unsatisfactory. UNAT held that the perception was unavoidably created that the Appellant was inappropriately favoured with access to information about a decision concerning his interests and in respect of which he enjoyed no authority, and the integrity of the process was manifestly compromised. UNAT held that the UNDT did not err in holding that the cancellation decision was rational and lawful and that there was no cogent evidence supporting the allegation that it was motivated by gender discrimination, improper motives or made in bad faith. UNAT held that the Appellant failed to discharge his burden to show that the UNDT erred on the facts or in law. UNAT held that the Appellant did not demonstrate any of the grounds for appeal in Article 2(1) of the UNAT Statute. UNAT dismissed the appeal and upheld the UNDT Judgment.

Decision Contested or Judgment/Order Appealed

The Appellant contested the decision to cancel the selection process for a post and his non-selection for the subsequently readvertised post. The UNDT concluded that it was reasonable for the Executive Director to have cancelled the initial selection process because of a breach of confidentiality in that process. Because Appellant's only ground for voiding his non-selection for the readvertised post was the alleged unlawfulness of the cancellation decision, UNDT held that this claim necessarily also failed.

Legal Principle(s)

It is within the discretionary authority of the Administration to cancel a recruitment procedure on rational grounds on account of irregularities occurring in the recruitment process or for reasons connected with the interests of service. In general terms, a tribunal ought not to interfere with the discretion to cancel a recruitment exercise for rational reasons, even when a candidate has been recommended but not yet appointed. Judicial review is directed not at the ruminations or thoughts of officials but at administrative decisions that become effective on communication.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Giuseppe Belsito

Entity

UN Secretariat

Case Number(s)

2021-1577

Tribunal

UNAT

Registry

New York

Date of Judgement

11 Aug 2022

President Judge
Judge Murphy
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Selection decision
Staff selection (non-selection/non-promotion)
Applicable Law
Staff Regulations

- Regulation 4.1

UN Charter

- Article 101.1

UNAT Statute

- Article 2.1

GA Resolutions

- A/RES/64/289

Other UN issuances (guidelines, policies etc.)

- UN Women Recruitment Selection Guidance

Related Judgments and Orders

2019-UNAT-932

2021-UNAT-1134

2011-UNAT-149