

UNDT/2022/123, Ronved

UNAT Held or UNDT Pronouncements

The challenge against the decision to grant the Applicant a special post allowance (SPA) instead of a temporary promotion was found to not be receivable *ratione materiae* for the lack of an administrative decision. The Tribunal also considered that this claim was not receivable due to the absence of a timely management evaluation request. The challenge against the decision to find the Applicant ineligible to apply for a job opening at the P-5 level was found receivable given that the management evaluation request was filed within two months from the application for the job opening. The Applicant voluntarily accepted the temporary assignment and the SPA. Hence, the mere extension of the Applicant's temporary assignment did not convert the TJO for which they had applied to a regular job opening, with a regular promotion regime. Accordingly, there was no irregularity in not granting the Applicant a temporary promotion, and, holding an appointment on a P-3 level, they were rightly considered non-eligible for JO 178301, which was a P-5 level post. Absent irregularity of the impugned decision, the question of compensation did not arise.

Decision Contested or Judgment/Order Appealed

The Applicant contested decisions to: (i) grant them a special post allowance (SPA) instead of a temporary promotion; and (ii) find them ineligible to apply for a job opening that was more than one level above their current grade.

Legal Principle(s)

The Respondent has a legal obligation to issue a clearly identifiable and reasoned decision within a specific time, with a corresponding right on the part of a staff member to be rendered such a decision. Pursuant to section 6.1 of ST/AI/2010/3 (Staff selection system), staff members were ineligible to apply for positions more than one level higher than their personal grade. The regime of a temporary

assignment at a higher level does not contradict staff rule 3.10(b), even where the assignment is preceded by a selection exercise, because its finite duration and a simplified recruitment process justifies a different treatment and is not improperly discriminatory. Moreover, there is no violation of the principle of equal pay for equal work. The payment of SPA ensures that the principle is observed.

Outcome

Appeal dismissed on merits

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Ronved

Entity

UNSOS

Case Number(s)

UNDT/NBI/2022/072

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

14 Nov 2022

Duty Judge

Judge Milart

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Special Post Allowance

Eligibility

Benefits and entitlements

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2010/3
- ST/AI/2010/4/Rev.1

Staff Rules

- Rule 3.10(b)

Related Judgments and Orders

2016-UNAT-704