

UNDT/2024/066, Cokanasiga

UNAT Held or UNDT Pronouncements

The Tribunal reviewed the evidence on record and the reasons provided by the Respondent for not selecting the Applicant and concluded that based on the information provided by the Applicant, the Respondent's decision not to select him cannot be faulted as being unfair. The Applicant did not have the CIPS level 2 certification that was a mandatory requirement for the position, and he did not prove that he had two years of progressive experience in procurement management.

Furthermore, the Applicant's suggestion in his submissions that the selection panel ought not to have relied only on his application but should have sought out managers with knowledge of his work over the years to supplement it with information about his procurement experience is unsupported by any authority. The Applicant had failed to prove that the Respondent was required to conduct further research beyond the information submitted when he applied for the job if, on the face of it, he did not meet the required qualifications.

The Tribunal found that the Respondent had established that full and fair consideration was given to the Applicant during the Job Fair process. It also determined that the Applicant failed to rebut the presumption of regularity in the selection process with clear and convincing evidence.

Consequently, the Tribunal decided to reject the application in its entirety.

Decision Contested or Judgment/Order Appealed

The decision not to select the Applicant for the position of Procurement Analyst (National Officer B level, "NOB") in the UNDP Pacific Office in Fiji.

Legal Principle(s)

When judicially reviewing administrative decisions regarding staff selections, the Appeals Tribunal has held that the Tribunal shall examine (a) “whether the procedure as laid down in the Staff Regulations and Rules was followed”, (b) “whether the staff member was given full and fair consideration”, and (c) “whether the applicable Regulations and Rules were applied in a fair, transparent and non-discriminatory manner” (Toson 2022-UNAT-1249, para. 28).

The Appeals Tribunal has held that in said review process, “the Tribunal’s role is not to substitute its own decision for that of the Administration” (see, Toson, para. 27 and Verma 2018-UNAT-829, para. 13). Also, in reviewing “any selection decision the standard of review is one of rationality. The decision must be supported by the information before the decision-maker and the reasons given for it. The question to be asked is whether there is a rational and justifiable connection between the information available to the administrative decision-maker and the conclusion he or she eventually arrived at” (Krioutchkov, para. 28).

The Appeals Tribunal has also held that, “[a] candidate challenging the denial of promotion must prove through clear and convincing evidence that procedure was violated, the members of the panel exhibited bias, irrelevant material was considered or relevant material ignored. There may be other grounds as well. It would depend on the facts of each individual case” (Rolland 2011-UNAT-122, para. 21 and Verma, para. 14).

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Cokanasiga

Entity

UNDP

Case Number(s)

UNDT/GVA/2023/058

Tribunal

UNDT

Registry

Geneva

Date of Judgement

27 Sep 2024

Duty Judge

Judge Honeywell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Selection decision

Staff selection (non-selection/non-promotion)

Applicable Law

Laws of other entities (rules, regulations etc.)

- UNDP Strategic Review Note on the HR Process UNDP Pacific Office in Fiji

Staff Rules

- Rule 9.6(c)

Related Judgments and Orders

2011-UNAT-110

2022-UNAT-1248

2022-UNAT-1249

2018-UNAT-829

2010-UNAT-084

2011-UNAT-122