

UNDT/2024/099, Hassan

UNAT Held or UNDT Pronouncements

Having considered all the submissions and the evidence on record, the Tribunal considered that the main issue for determination was whether the hiring manager conducted a fair and unbiased assessment of the Applicant's candidacy, giving it full and fair consideration.

The spreadsheet submitted by the Respondent in response to Order No. 57 (GVA/2024) sheds a light into the matter. This contemporaneous document showcases the hiring manager's thorough assessment of the Applicant's professional experience.

The Applicant's submissions concerning his title, long satisfactory service, OiC experience, First Reporting Officer's comments, and workshop attendance on the new budgetary process did not demonstrate that he had more experience in the required area than what it was attributed to him. It was also not probative of any wrongdoing in him being left out of the shortlist.

Therefore, the Tribunal was satisfied by the evidence on record that the Applicant was given full and fair consideration by having his professional experience thoroughly assessed, and found that the hiring manager's decision not to shortlist him was a lawful exercise of discretionary authority.

Furthermore, the record showed procedural irregularities in the screening and shortlisting exercises, as the selected candidate lacked one of the required qualifications. This was a serious issue that impaired the candidates' rights and ultimately led the Administration to cancel the selection process.

Notwithstanding, the procedural error in question bared no impact to the Applicant's chance of selection. The reason for the Applicant not being shortlisted was that he did not have the seven years of progressively responsible experience in budget that the hiring manager used as a shortlisting criterion. In the Tribunal's view, the Applicant did not have a realistic chance of selection, regardless of the procedural

error that invalidated the recruitment exercise.

Lastly, the Applicant argued that the Administration violated his rights by not notifying him of the selection results within 14 days of the decision, as indicated in sec. 10.1 of ST/AI/2010/3/Rev. 3. While the Tribunal agreed that the Administration failed to notify the Applicant of the selection decision within the prescribed deadline, it considered that this procedural deficiency did not affect the Applicant's right to request management evaluation and file the instant case.

Consequently, the Tribunal rejected the Applicant's request for remedies and decided to reject the application in its entirety.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision not to select him for the P-4 post of Chief Finance and Budget Officer, UNISFA, advertised as "Recruit from Roster" Job Opening No. 198446.

Legal Principle(s)

In reviewing administrative decisions regarding appointments and promotions, the role of the Dispute Tribunal is limited to examining if the procedures set out in the Staff Regulations and Rules were followed and if the staff member was given full and fair consideration.

The Secretary-General has broad discretion in making decisions regarding promotions and appointments and, in reviewing such decisions, it is not the role of the Tribunal to substitute its own decision for that of the Administration.

The role of the Tribunal is "to assess whether the applicable Regulations and Rules have been applied and whether they were applied in a fair, transparent and non-discriminatory manner".

It is accepted that the Administration has discretion in selection matters and as long as that discretion is exercised lawfully, the Tribunal should not interfere with it. Furthermore, such exercise of discretion is presumed to be lawful unless it is rebutted by clear evidence provided to the contrary demonstrating how the

Administration may have erred.

Outcome

Dismissed on the merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Hassan

Entity

UNISFA

Case Number(s)

UNDT/GVA/2023/041

Tribunal

UNDT

Registry

Geneva

Date of Judgement

26 Nov 2024

Duty Judge

Judge Sun

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Full and fair consideration

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2010/3
- ST/AI/2010/3/Rev. 2
- ST/AI/2010/3/Rev. 3

Related Judgments and Orders

2011-UNAT-110

2017-UNAT-762

2012-UNAT-265

UNDT/2019/088

2024-UNAT-1467

UNDT/2022/092