

UNDT/2024/105, Krioutchkov

UNAT Held or UNDT Pronouncements

The primary legal issue before the Tribunal was whether the decision not to select the Applicant for the position of P-4 Reviser (Russian) was lawful in that he was given full and fair consideration for the position.

The Tribunal found that the applicable procedures were properly followed, and that the Applicant's allegations of procedural irregularities were unsubstantiated.

With respect to full and fair consideration, the Tribunal noted that after reviewing the applications based on the established evaluation criteria, four candidates were deemed not to be suitable and five candidates, including the Applicant, were shortlisted for competency-based interviews (CBIs). Following the CBIs, the panel concluded that the Applicant did not fully meet all the required competencies, namely accountability, professionalism and technological awareness. As a result, he was not recommended for selection.

Contrary to his argument, his long satisfactory service at the P-3 level does not necessarily give him a right to a promotion. It is well-settled that a staff member has a right to full and fair consideration, not to a promotion.

The Tribunal found that the evidence on record does not support the Applicant's account. Indeed, he was shortlisted and interviewed, but ultimately not recommended for the position due to the interview panel's assessment of his competencies. Nothing on the record supports a finding that this assessment was poorly made, and that the Applicant should have been recommended instead. Likewise, nothing supports a finding that the recruitment process was impacted by discrimination or bias.

Furthermore, since the Applicant was not in the P-4 roster associated with the reclassified P-4 post, he could not claim that the Administration failed to consider him as a roster candidate.

In light of the above, the Tribunal found that the contested decision was lawful and rejected the application in its entirety.

Decision Contested or Judgment/Order Appealed

The Applicant filed an application contesting the decision not to select him for the position of Reviser at the P-4 level in the Russian Language Unit (“RLU”) of ESCAP.

Legal Principle(s)

It is well-established that the Secretary-General has broad discretion in matters of appointment and promotions and that, in reviewing such decisions, it is not the role of the Tribunal to substitute its own decision for that of the Administration.

The Tribunal’s role is limited to examine (1) whether the procedure as laid down in the Staff Regulations and Rules was followed; and (2) whether the staff member was given fair and adequate consideration.

In selection and appointment matters, there is a presumption of regularity concerning the performance of official acts. Accordingly, in a recruitment procedure, if the Administration minimally shows that a staff member’s candidature was given full and fair consideration, the burden of proof shifts to the candidate, who must then be able to show through clear and convincing evidence to have been denied a fair chance of promotion

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Krioutchkov

Entity

ESCAP

Case Number(s)

UNDT/GVA/2023/054

Tribunal

UNDT

Registry

Geneva

Date of Judgement

5 Dec 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

Related Judgments and Orders

2017-UNAT-762
UNDT/2019/088
UNDT/2022/092
2024-UNAT-1467
2010-UNAT-070
2011-UNAT-110
2012-UNAT-200
2012-UNAT-265
2016-UNAT-642
2021-UNAT-1103
2011-UNAT-122
2023-UNAT-1334
2021-UNAT-1125
2015-UNAT-496
2016-UNAT-707