

# **2025-UNAT-1523, Madhumita Hosali**

## **UNAT Held or UNDT Pronouncements**

The UNAT expressed serious concern about the lack of a sufficient record of reasons supporting the choice of the selected candidate over the staff member at the time of the contested decision.

The UNAT found that gender and geographical considerations were unevenly applied in the selection exercise, positively assessing the British male while ignoring or discounting that the staff member was an Indian female. Contrary to Staff Regulation 4.4, in which the fullest regard should be given to internal candidates, the UNAT found that her UN experience was used to disadvantage her. The UNAT also found that the selection panel made problematic subjective comments about her interview responses. In sum, the UNAT held that the UNDT erred in law and fact when it found that the Administration had minimally shown that she was afforded full and fair consideration.

In the circumstances of this case, the UNAT believed that rescission of the non-selection decision was not a practical remedy. Accordingly, the UNAT granted the staff member compensation for material harm at 50 per cent of the salary differential between the D-1 and D-2 grade levels over a period of two years.

Given the UNAT's upholding of the appeal on other grounds, the UNAT declined to decide whether the Administrative Instruction on Temporary Special Measures for the achievement of gender parity applied to positions at the D-2 level.

The UNDT Judgment was reversed.

## **Decision Contested or Judgment/Order Appealed**

In Judgment No. UNDT/2024/017, the UNDT dismissed the staff member's application in which she challenged her non-selection for a D-2 post in the

Department of Global Communications. The UNDT concluded that her candidature had received full and fair consideration, and that the Administration had minimally demonstrated the lawfulness of the contested decision.

The staff member appealed.

## Legal Principle(s)

Absent any specific reason underpinning the selection decision, the Administration cannot be considered as having fulfilled its burden to minimally show that the staff member had been given full and fair consideration in the selection exercise, and the presumption of regularity thus falls.

The Administration has wide discretion to select the most suitable candidate for a post. In exercising that discretion, the Administration must use it legally and rationally, ensuring full and fair consideration for the candidates to the selection exercise. This requires that the Administration choose lawful criteria against which candidates are assessed and apply those same criteria in a consistent manner.

Rescission is not a proportionate remedy in all cases, and such remedy will depend on the circumstances of each case and the possible consequences for third parties.

In order to calculate the economic loss suffered by the staff member as a result of the unlawful contested decision, the Tribunals will assess whether he or she would have had a significant chance of being selected absent the illegality.

## Outcome

Appeal granted

## Outcome Extra Text

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Madhumita Hosali

## Entity

UN Secretariat

## Case Number(s)

2024-1928

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

25 Apr 2025

## President Judge

Ahmed

Judge Sandhu

Judge Savage

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Loss of chance

Full and fair consideration

Compensation

Staff selection (non-selection/non-promotion)

## Applicable Law

### Administrative Instructions

- ST/AI/2020/5

### Staff Regulations

- Regulation 4.2

### UN Charter

- Article 101.3

### UNAT Statute

- Article 9.1(b)