
Judgment No. 2024-UNAT-1423



Before: Judge Abdelmohsen Sheha, Presiding
Judge Nassib G. Ziadé
Judge Kanwaldeep Sandhu

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Counsel for Appellant: Self-represented

Counsel for Respondent: Patricia C. Aragonés

Resource Management (ORM), the Principal Human Resources (HR) Officer, United Nations Assistance Mission in Somalia (UNSOM) – Mr. C.T., the HR Officer and Mr. Chawla.¹⁰

23. On 8 December 2022, the Dispute Tribunal issued the impugned Judgment. It first examined the constitution of the interview panel. Regarding the Secretary-General's reliance on Section 9 of the Staff Selection System Manual (Manual), which states that "[t]here may (...) be instances where for reasons of availability of panel members, or conflict of interest, panel membership must be adjusted", the UNDT noted that pursuant to Section 2.6 of Administrative Instruction ST/AI/2010/3 (Staff selection system), "[s]hould there be any inconsistency between the manuals and the text of the present instruction, the provisions of the instruction shall prevail".

The UNDT further found that it had been demonstrated by clear and convincing evidence that the selected candidate's qualifications were at least substantially equal, if not superior, to Mr. Chawla's, and that she possessed more experience at the management level. The UNDT also noted that she passed the technical video-interview assessment and that there was no evidence that she would have failed a written test on the same subject. The UNDT emphasized that the administration of a written test or a technical video-interview assessment was discretionary and not mandatory. It further observed UNSOS's targets with respect to gender balance and noted the absence of women at the D

[Mr. Chawla] based on prior knowledge of his work and not on his actual answer during the CBI”.²⁰ However, the UNDT found that Mr. Chawla did not provide clear and convincing evidence of bias and further observed that the impact of that issue was minimal as it only affected one of the eight indicators in the leadership competency.

30. Therefore, the UNDT concluded that the evidence presented by Mr. Chawla was insufficient to establish a finding of bias. The UNDT found that the impact of the issue was minimal as it only affected one of the eight indicators in the leadership competency.

in April 2021 was copied to two of the interview panel members.²³ Mr. Chawla submits that the existence of bias was acknowledged by the UNDT in its two Orders on his application for SOA.²⁴

38. Mr. Chawla contends that he had the most relevant experience compared to all the rostered candidates and the interview panel “knew that if [he] had been placed on roster, [he] would have challenged [his] non-selection for the [position] on this ground”.

39. The Secretary-General requests the Appeals Tribunal to uphold the impugned Judgment and to dismiss the appeal. However, should the UNAT consider the contested decision unlawful, the Secretary-General requests that the case be remanded for a determination based on the parties’ submissions.

40. The Secretary-General submits that the Dispute Tribunal correctly found that the contested decision was lawful. He further argues that the contested decision was in accordance with Article 101 of the Charter of the United Nations, Staff Regulations 4.1 and 4.2, ST/AI/2010/3 as well as Section 3.6 of Administrative Instruction ST/AI/2020/5 (Temporary special measures for the achievement of gender parity).

44. In this regard, the Secretary-General argues that the UNDT correctly rejected Mr. Chawla's claim that the inconsistent composition of the interview panel was unlawful. The Secretary-General argues that the interview panel was constituted in accordance with ST/AI/2010/3, which does not include a requirement for the interview panel to be comprised of the same members through the whole selection process. The Secretary-General highlights that the same core panel members

the UNDT's findings does not demonstrate any error in the impugned Judgment. Moreover, the Secretary-General highlights he did explain in his closing submissions why Mr. Chawla's claim that eight rostered candidates should not have been rostered had no merit. The Secretary-General also argues that the evidence upon which the UNDT relied demonstrated that the selected candidate was superior to Mr. Chawla.

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52. Last, the Secretary-General submits that Mr. Chawla's request for remedies should be rejected in its entirety.

53. The appeals process under the formal system of administration of justice is of a corrective nature. The role of this Tribunal is not to conduct a review of the case, but rather to examine the impugned judgment for any errors of fact, law, or procedure that might have affected the decision.²⁷ It is the appellant's burden to satisfy this Tribunal that such errors exist.²⁸ It follows that the scope of appeal is determined by the party initiating the appeals process and this Tribunal lacks the authority to raise other issues, except for jurisdictional issues.

54. To define the scope of appeal, this Tribunal relies on the contentions introduced in the appeal brief, examining them through a fair and objective reading.

55. On appeal, Mr. Chawla, while recounting the full history of his case, does not challenge every point of fact and law contained in the impugned Judgment. Under Sections "Grounds of Appeal" and "Issues for consideration of UNAT", Mr. Chawla challenges the UNDT's finding regarding the lawfulness of the recruitment process, to wit:²⁹

- i) the failure of the Administration to correctly apply the job requirements to all candidates, which would have resulted in the early disqualification of seven out of 15 rostered candidates, and the selected candidate herself; and
- ii) the failure of the Administration to grant him full and fair consideration in the recruitment process due to the bias of the CBI panel members.

56. Although Mr. Chawla does not specify the nature of the errors invoked, we note that he is self-represented. Therefore, he deserves some degree of latitude from this Tribunal to properly review his appeal. Considering the elements introduced by Mr. Chawla, we deem that he submits

²⁷ , Judgment No. 2017-UNAT-737, para. 33.

²⁸ , Judgment No. 2017-UNAT-744, para. 36.

²⁹ Mr. Chawla raised two more issues before the UNDT that were not submitted on appeal: i) the issue of the different constitution of the CBI panels; and ii) the issue of abandonment of the technical assessment. As these substantive issues were not raised by Mr. Chawla on appeal, the Tribunal refrains from addressing them.

that the UNDT erred in fact, resulting in a manifestly unreasonable decision, and in law in the two points mentioned hereabove.

57. We shall now examine these two grounds of appeal.

58.

69. As the request for rescission had been denied

72. Mr. Chawla's appeal is dismissed, and Judgment No. UNDT/2022/130 is hereby affirmed.

Original and Authoritative Version: English

Dated this 22nd day of March 2024 in New York, United States.

Judge Sheha, Presiding

Judge Ziadé

Judge Sandhu

Judgment published and entered into the Register on this 30th day of April 2024 in New York, United States.

Juliet E. Johnson, Registrar