

**UNITED NATIONS APPEALS TRIBUNAL**  
**TRIBUNAL D'APPEL DES NATIONS UNIES**

**Abbassi**  
**(Appellant)**

**v.**

**(Respondent)**

**APPELLANT**

Judge Sophia Adinyira, Presiding  
Judge Kamaljit Singh Garewal  
Judge Inés Weinberg de Rocca

2011-UNAT-110

11 March 2011

Counsel for Appellant: **Bruno B. Schuster and Anita Saran**

Counsel for Respondent: **Amy Wood**

**JUDGE SOPHIA ADINYIRA**, Presiding.

**Synopsis**

1. Khadifa Abbassi (Abbassi) challenged the decision not to select her for the post of P-4 Arabic Reviser on the ground that the selection procedure for the consideration of 15-day and 30-day candidates was not followed. The United Nations Dispute Tribunal (UNDT or Dispute Tribunal) found that the selection procedure was followed and Abbassi, a 15-day candidate, was considered and found unsuitable for the post before the 30-day

6. On 3 November 2009, Abbassi requested a management evaluation of the decision not to select her for the post of Arabic Reviser. The decision was upheld by the Secretary-General.

7. Abbassi contested the decision before the UNDT. The UNDT dismissed her application in Judgment No. UNDT/2010/086, dated 6 May 2010. The issue in the case was whether Abbassi, a 15-day candidate, was considered and found unsuitable for the post before the 30-day candidates were considered. The UNDT found that Abbassi's suitability for the vacancy was considered immediately after her interview. Based on the panel's conclusions regarding Abbassi's weaknesses wi

competencies than a 30-day candidate. Abbassi argues that she was unlawfully assessed against a higher standard than the 30-day candidates.

11. Abbassi contends that the UNDT erred in fact or law by not admitting into evidence

**Considerations**

**Preliminary issue**

17. Abbassi requests that this Tribunal receive additional evidence pursuant to Article 2(5) of the Statute. After the conclusion of the hearing before the UNDT, Abbassi requested that an e-mail from the Director of the Documentation Division of DCAGM, New York, regarding the workload in New York be admitted into evidence. The UNDT refused the request for the reason that the e-mail lacked probative value.

18. Abbassi submits that the UNDT made an error of fact in refusing to admit the additional evidence. Abbassi argues that the e-mail is relevant as the programme manager's assessment of her ability to work in Geneva was premised on the programme manager's assessment of the workload in Geneva compared to that in New York.

19. We do not consider that Art152.8(4)Tj(35 Tci-0.(75nt as )-5..9(r)156.1(01D-0.6(

**Main issues**

22. Article 2(1)(e) of the Statute provides that the Appeals Tribunal is competent to hear and pass judgment on an appeal that asserts that the UNDT has “[e]rrred on a question of fact, resulting in a manifestly unreasonable decision”. It is the duty of an appellant to demonstrate that the UNDT’s judgment is defective.

23. In reviewing administrative decisions regarding appointments and promotions, the UNDT examines the following: (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.

24. The Secretary-General has a broad discretion in making decisions regarding promotions and appointments. In reviewing such decisions, it is not the role of the UNDT or the Appeals Tribunal to substitute its own decision for that of the Secretary-General regarding the outcome of the selection process.

25. Under Section 7.1 of the applicable Administrative Instruction on the staff selection

evidence that the panel only made a provisional determination as to her suitability. In this appeal, Abbassi simply repeats her arguments before the UNDT, which were rejected. We find that there is no reason to reject the analysis by the UNDT of Abbassi's arguments and overturn the UNDT's finding (see paragraphs 25 and 26 of the Judgment).

28. Abbassi's argument that the UNDT erred in finding that she was found to be an unsuitable candidate before the 30-day candidates were considered must also fail. The UNDT accepted the evidence of the programme manager that the panel discussed Abbassi's suitability immediately after the interview and decided that she was unsuitable. The UNDT considered that the interview notes of the panel members supported this finding. Abbassi has not demonstrated that other evidence contradicted the programme manager's evidence, or that it was unreasonable to accept the programme manager's evidence on this point in light of other evidence. Therefore, there are no grounds for overturning the UNDT's finding on this point.

29. Finally, Abbassi submits that the UNDT made an error in finding that she was measured against the same standard as the 30-day candidates. As a 15-day candidate seeking a lateral move, Abbassi was expected to demonstrate that she did satisfy the performance requirements of the post, whereas the 30-day candidates who were seeking a promotion were expected to demonstrate that they would meet those performance requirements. The UNDT found that Abbassi was assessed differently to the 30-day candidates as she was a different candidate and this did not amount to unequal treatment. We find no error in the reasoning of the UNDT.

30. We find that there is no merit in Abbassi's appeal.

**Judgment**

31. The appeal fails and it is dismissed. The Judgment of UNDT is affirmed.

Original and Authoritative Version: English

Dated this 11<sup>th</sup> day of March 2011 in New York, United States.

*(Signed)*

Judge Adinyira, Presiding

*(Signed)*

Judge Garewal

*(Signed)*

Judge Weinberg de Roca

Entered in the Register on this 19<sup>th</sup> day of April 2011 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar