

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

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**Rolland**

**(Appellant and Respondent on Cross-Appeal)**

**v.**

**Secretary-General of the United Nations**



**Facts and Procedure**

8. Rolland joined the Organization in 1975 as a general service staff member and retired in December 2008 as a professional at the P-4 level.
9. On 22 September 2007, a vacancy announcement was issued for three posts of Senior Human Resources Officer located within the Field Personnel Division (FPD) of the newly-created DFS at the P-5 level in New York. Rolland applied for each of the three posts within the time limit. At that time she was Chief, Recruitment and Outreach Unit, FPD in New York. Prior to that she had served in peacekeeping missions and received a Special Post Allowance (SPA) at the P-5 level while on mission in the Democratic Republic of Congo from July 2001 to January 2005.
10. On 25 October 2007, Rolland was interviewed for the three vacant P-5 posts. According to the evaluation documents compiled by the interview panel, 11 candidates were considered and interviewed (one 15-day candidate and ten 30-day candidates). Rolland was ranked lower than the top half of the candidates interviewed. Six candidates were assessed as suitable for the posts and three of them were selected, including one who had been acting as Officer-in-Charge (OIC) of the unit almost two months before the advertisement of the position. Rolland was neither found suitable for the posts nor was she rostered.
11. But Rolland was not formally notified of her non-selection. She did not become

account, relevant material ignored, or of a mistake of fact or law, the Tribunal will not be able to conclude that the process was significantly flawed or a value judgment mistaken. It is, after all, not the Tribunal's role to determine the outcome of a promotion or appointment process."

14. Judge Adams reviewed the issues related to Rolland's attributes, the fact that one of the selected candidates was OIC of the unit, the gender balance, and the evaluation documents, but did not detect evidence that would give rise to concern. However, Adams, J., did find the lack of notification to Rolland about her non-selection to constitute a breach of specific obligations towards her, and awarded Rolland the sum of USD 500 as nominal

**Submissions and Considerations**

20. The Dispute Tribunal possesses jurisdiction to rescind a selection or promotion process, but may do so only under extremely rare circumstances. Generally speaking, when candidates have received fair consideration, discrimination and bias are absent, proper procedures have been followed, and all relevant material has been taken into consideration,

have been taken into account by the interview panel. Fourthly, only two of the selected candidates met the highly desirable requirement of at least one year in a United Nations peacekeeping or other field operation. Fifthly, none of the three selected candidates had knowledge of French, despite the linguistic requirement of the vacancy of a second United Nations language, preferably French, whereas Rolland was French-speaking. Sixthly, all three selected candidates were male; this did not comply with the gender policy of the Organization. Seventhly, the evaluation criteria were inconsistent with the vacancy announcement. The selection criteria were not specified in a separate document as required. And lastly, eligibility requirements regarding time-in-grade and time-in-post were inappropriately taken into account contrary to Administrative Instruction ST/AI/2006/3.

25. The above grounds are quite contentious, and cannot be decided in the absence of the successful candidates, and without the examination of the interview panel's record. There may be some parts of the record which must be kept confidential to maintain the independence and the integrity of the selection/promotion exercise. Similarly, some of the other grounds of challenge have been dealt with by the UNDT. It is up to Rolland to show how the Judgment is in error on a question of law, or fact or procedure.

26.

taken by the Tribunal was open and transparent. In such a situation it cannot be said that there were procedural lapses affecting the decision.

29. Reference has been made to the testimony of the Assistant Programme Manager (APM) that Rolland's evaluations were of her performance at the P-4 level. This, according to Rolland, showed that her evaluations at the senior level while on mission had not been considered. It was also wrong of the APM to say that the P-5 responsibilities in the field were not equivalent to those at the Headquarters. The UNDT did not find evidence showing that the interview panel had presumed that Rolland's performance had not been fully successful, or that its evaluation was mistaken. As for the point regarding the P-5 level posts in the field and the Headquarters not being the same, the UNDT correctly held that this was not an issue before the Tribunal and would not show that the result of the interview was in any way improper.

30. This appeal stems largely from the fact that Rolland was unsuccessful before UNDT. The grounds mentioned under the fundamental breaches of due process, the review mechanisms and recourse mechanisms are quite vague. Rolland does not explain how any of these grounds can validly succeed in upsetting the UNDT Judgment. Rolland states that the conclusions by the UNDT were at odds with the principles of law, but offers no explanation. Of course, the withholding of notification of the selection result was held to be a breach of her rights and we find no reason to hold otherwise. The non-notification was wrong in view of the provisions of Administrative Instruction ST/AI/2006/3, Annex II, paragraph 5, which states that "Programme Managers must inform all interviewed candidates who have not been selected of their non-selection and/or placement on the roster".

31. Failure of notification of non-selection may have a serious impact on the future career development of a staff member by delaying preparation for seeking other positions. It also delays the administrative review/management evaluation of the case. For this lapse she has been sufficiently compensated with an award of damages of USD 500 by the UNDT. We do not interfere with this award.

32. The remaining grounds of appeal are more in the realm of the abstract, rather than legal field. Reference was made to certain paragraphs of the Judgment to challenge some of the findings of the Dispute Tribunal, but we do not find any of these grounds valid. Rolland has not been able to show how the selection process was vitiated.

33. In view of the above, the appeal is dismissed. The cross-appeal challenging the award of damages is also dismissed.

**Judgment**

34. The UNDT Judgment is affirmed. The appeal is dismissed. The cross-appeal is also dismissed.

Original and Authoritative Version: English

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

*(Signed)*

Judge Garewal, Presiding

*(Signed)*

Judge Adinyira TD(e)