





Case No. UNDT/NBI/2021/076

OrderNo. 179 (NBI/2021)



candidate who was found unsuitable for the advertised position on grounds that she did not have significant management experience and the decision not to shortlist her was examined as part of the eventual selection. Whereas the Applicant had filed two applications one against not shortlisting her the process and another one against her non-selection at the end of it, in both applications the remedy sought had been to be selected and appointed to the position. In the situation of parallel applications, it was certainly appropriate for the claim to have been adjudicated at the end of the selection exercise.

17. On the facts before this Tribunal, however, the decision to exclude the Applicant from the selection

Case No. UNDT/NBI/2021/076

OrderNo. 179 (NBI/2021)

undertook inquiry into the merits of staff selection and that the depth of the review turned on the coherence of reasons provided for it.

24. Review of discretionary decisions for rationality, and the primary onus on the Administration to show the rationale, is described in the recent Appeals Tribunal judgment in *Applicant*:

When a tribunal is called upon to judicially review an administrative decision on the ground of irrationality, it is required to examine whether the decision is rationally connected to the purpose for which it was taken, the purpose of the empowering provision, the information before the Administration, or the reasons given by the Administration. That task of judicial review depends on the furnishing of adequate and coherent reasons for the decision. The giving of reasons is one of the fundamentals of good administration. It encourages rational and structured decision-making and minimizes arbitrariness and bias.

The requirement for coherent reasons compels the decision-maker to properly consider the relevant statutory provisions, the grounds for taking the decision, the purpose of the decision, all the relevant considerations and the policy to be implemented. Coherent reasons also encourage open administration and contribute to a sense of fairness. Reasons also critically provide the basis for judicial review of the decision. By requiring coherent reasons supported by the evidence one ensures that there is a rational connection between the premises and the conclusion. The decision







32. Overall, lacking a responsive answer from the Respondent, the Tribunal finds that the Applicant has demonstrated *prima facie* unlawfulness.

*Urgency and irreparable harm*

33. The prongs of urgency and irreparable harm are satisfied given the progression of the selection process, where exclusion of the Applicant from the competency-based interviews means that he will lose the opportunity to be included in the roster.

**Conclusion**

34. The Application is GRANTED