

UNDT/2009/078, Koh

UNAT Held or UNDT Pronouncements

UNDP had an obligation to its staff to make it clear that the time frame for making applications for ad hoc posts might be less than the two weeks period mandated for QUARRY positions. The respondent, by virtue of the settlement agreement, was obliged to comply, amongst other things, with the Guidelines for the Recruitment and Selection of UNDP Staff, especially since they dealt with the subject of the agreement, namely support for the applicant's attempts to obtain another post. Where there was a particular duty to inform imposed by the settlement agreement and the failure to inform constitutes a breach of the agreement, a decision not to undertake that duty is an administrative decision whatever form it might have taken or however it was made. Thus, the respondent had made an administrative decision contrary to the applicant's legal rights under his contract of employment and was liable to compensate the applicant. Outcome: The respondent was in breach of the contract of employment. Further evidence to be tendered on the question of compensation.

Decision Contested or Judgment/Order Appealed

UNDP abolished the position of applicant, a permanent UNDP staff member. He commenced appeal proceedings in respect of his termination. These were settled by agreement. One term was that UNDP "would continue to advocate on your behalf [and] provide dedicated career support by our career transition unit (CTU) and external career counselor". The applicant was unable to find another suitable appointment and he contended that UNDP did not fulfil its obligations to him under the settlement agreement and as an unassigned staff. He submitted, inter alia, that two ad hoc posts had been advertised with foreshortened application times of only eight days rather than the two weeks which were stipulated by the UNDP guidelines. He was therefore not aware of the posts and could not apply for them in time.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Koh

Entity

UNDP

Case Number(s)

UNDT/NY/2009/006/JAB/2007/050

Tribunal

UNDT

Registry

New York

Date of Judgement

20 Nov 2009

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

TEST -Rename- Benefits and entitlements-45

Special leave (with or without pay)

Termination (of appointment)

Abolition of position

Applicable Law

UNDT Statute

- Article 2