

UNDT/2009/093, Syed

UNAT Held or UNDT Pronouncements

In the present case, the Applicant, who was advised by OSLA that his case lacked legal merit and who nevertheless could be represented by a counsel of his choice before the Tribunal, cannot claim that his due process rights were violated. The Tribunal reiterates that a fixed-term appointment carries no expectancy of renewal. However, the Judge must examine whether the Administration's actions may have created a legitimate expectation of renewal and whether the decision not to renew the appointment was motivated by extraneous factors. In the present case, the decision not to renew the Applicant's fixed-term appointment is not unlawful.

Decision Contested or Judgment/Order Appealed

The Applicant entered the service of OCHA in January 2004 under a 200 series project personnel appointment. In October 2007, he was reappointed under a six-month fixed-term appointment (100 series of the Staff Rules), which was renewed once for two months and then allowed to expire. The Applicant filed an appeal against the non-renewal of his appointment. OSLA refused to assist him in the proceedings before the Dispute Tribunal.

Legal Principle(s)

The Tribunal considers that the General Assembly's resolution 62/228 must be interpreted as creating a right for staff members to seek legal assistance from OSLA and an obligation for OSLA to provide them with relevant legal advice, notably on the merits of their cases. Thus OSLA may advise a staff member not to pursue legal action on the grounds that his/her case is devoid of merit and may, for the same reasons, refuse to designate counsel to assist the staff member. Interpreting the resolution as imposing an obligation on OSLA to provide legal assistance to all staff members requesting it, including those with obviously frivolous cases, would

overload the office and prejudice those applicants with a serious case.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Syed

Entity

OCHA

Case Number(s)

UNDT/GVA/2009/010

Tribunal

UNDT

Registry

Geneva

Date of Judgement

21 Dec 2009

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Fixed-term appointment

Legal services (OSLA or other) and self-representation

Legal assistance

Non-renewal

Applicable Law

Former Staff Rules

- Rule 104.12(b)
- Rule 111.2(a)