

UNDT/2010/007, Saka

UNAT Held or UNDT Pronouncements

Chapter 6.3.1 of the UNHCR Staff Administration and Management Manual (SAMM) provides that “staff members on active duty who hold an indefinite or a fixed-term appointment will be entitled to maternity leave with full pay for a total period of 16 weeks comprising a pre-natal and a post-natal period. When the expiry date of a staff member’s fixed-term appointment, which is not considered for renewal, falls before the beginning of the six-week period prior to the delivery date, there will be no entitlement to maternity leave”. The Applicant’s contract expired on 31 December 2006. At that time, she was 26 weeks pregnant. Therefore, since the Applicant’s contract expired before the beginning of the six-week period prior to the expected delivery date, she was not entitled to maternity leave in accordance with the above-mentioned provision. Chapter 6.3.18 of the SAMM provides that “expectant staff members will be considered for extension or conversion of their appointment under the same criteria as other staff. When consideration is being given as to whether an appointment is to be extended or converted to another type of appointment, the fact that the staff member is or will be on maternity leave should not be a factor in that consideration. If on the basis of other considerations, a decision is made not to renew an appointment which is due to expire during the period of maternity leave, the appointment will be extended solely to cover the full duration of the maternity leave. If an appointment, which is not to be renewed expires before the beginning of the six weeks prior to the expected delivery date, the appointment need not be extended as there is no entitlement to maternity leave”. It results from the provisions cited above that given the number of months left before the expected delivery date, the Applicant did not have a right to have her contract renewed. The Applicant’s contract had been charged to a number of different posts since July 2005 and this financial anomaly could no longer continue. Thus, the Administration established that the decision not to renew the Applicant’s contract was taken in the interest of the service and was not tainted by discrimination linked to her pregnancy. Outcome: The application is rejected

Decision Contested or Judgment/Order Appealed

The Applicant alleges that she had a right to have her contract renewed. She stresses that her contract should have been renewed because she was pregnant at the time her temporary appointment expired and that, at least, she was entitled to maternity leave.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Saka

Entity

UNHCR

Case Number(s)

UNDT/GVA/2009/054

Tribunal

UNDT

Registry

Geneva

Date of Judgement

18 Jan 2010

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Maternity/paternity leave

Non-renewal

Reason(s)

Applicable Law

Former Staff Rules

- Rule 104.12(b)(ii)
- Rule 109.7(a)