

UNDT/2010/009, Allen

UNAT Held or UNDT Pronouncements

According to the Organization's broad discretion to reassign its employees to different functions, provided that the new position is in line with the grade, qualifications and professional experience, the Applicant could have been redeployed in principle. As legally required prior consultations with staff representatives were not held and - in addition - the agency showed lack of good faith by informing the Applicant only by 'all staff e-mail', procedural flaws vitiated the contested decision. Regardless of its significance, non-compliance with legal provisions specified in art. 2.1 UNDT statute leads to the illegality of the contested decision. As a general rule illegal administrative decisions shall be rescinded. Redeployment/reassignment is not an 'appointment' as mentioned in art. 10.5 (a) UNDT statute. Failure to adhere to procedural rules should be compensated.

Decision Contested or Judgment/Order Appealed

The Applicant, a P-3 staff member with permanent appointment and previous experience in procurement, was assigned as Officer in Charge in the agency's Human Resources Management Section, thus filling a temporary P-5 vacancy for several months. He was granted a Special Post Allowance to P-4. Without prior consultations either with Staff Representatives or with the Applicant, he was subsequently redeployed to a P-3 post as Chief, General Services and Travel Unit. This decision, which is the subject of the appeal, was conveyed to the Applicant by 'All staff e-mail'. Legal arguments: According to the Organization's broad discretion to reassign its employees to different functions, provided that the new position is in line with the grade, qualifications and professional experience, the Applicant could have been redeployed in principle. As legally required prior consultations with staff representatives were not held and - in addition - the agency showed lack of good faith by informing the Applicant only by 'all staff e-mail', procedural flaws vitiated the contested decision. Regardless of its significance, non-compliance with legal provisions specified in art. 2.1 UNDT statute leads to the illegality of the contested

decision. As a general rule illegal administrative decisions shall be rescinded. Redeployment/reassignment is not an 'appointment' as mentioned in art. 10.5 (a) UNDT statute. Failure to adhere to procedural rules should be compensated. Outcome: The contested decision was rescinded; in addition the respondent was ordered to pay USD 12,000 to the Applicant (material and moral damage).

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The contested decision was rescinded; in addition the respondent was ordered to pay USD 12,000 to the Applicant (material and moral damage).

Full judgment

[Full judgment](#)

Applicants/Appellants

Allen

Entity

UNCTAD

Case Number(s)

UNDT/GVA/2009/015

Tribunal

UNDT

Registry

Geneva

Date of Judgement

21 Jan 2009

Duty Judge

Judge Laker

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Compensation

Non-pecuniary (moral) damages

Staff selection (non-selection/non-promotion)

Applicable Law

Secretary-General's bulletins

- ST/SGB/172
- ST/SGB/274

Staff Regulations

UNDT Statute

- Article 2.1

Related Judgments and Orders

UNDT/2009/025

UNDT/2009/028

UNDT/2009/084

UNDT/2009/033