

UNDT/2010/124, Frechon

UNAT Held or UNDT Pronouncements

The Tribunal rescinds the decision to terminate the Applicant's employment and Orders: (i) the Respondent to reinstate the Applicant to a position whose duties she is able to carry out given the impairment she suffers; (ii) Orders the Respondent to make good the Applicant's lost earnings from the date of termination of her fixed-term appointment to the date of her reinstatement with interest at 8% per month for the said period; (iii) Orders that the Applicant be paid her entitlement to for the period from 28 March 2007 to 31 July 2007 during which period she was entitled to special sick leave; (iv) Fixes the compensation to be paid to the Applicant, should the Secretary-General decide, in the interest of the Administration, not to perform the obligation to reinstate the Applicant, at two years' net base salary at the rate in effect on the date of the Applicant's termination from service, with interest payable at eight per cent per annum as from 90 days from the date of distribution of this Judgment until payment is effected; and (vi) Rejects all other pleas.

Decision Contested or Judgment/Order Appealed

The Applicant contested the non-renewal of a fixed-term appointment. The facts giving rise to this application are contained in UNDT Judgment No. 089 (2010). In the said Judgment, the Tribunal, in accordance with Article 20 of the UNDT Rules of Procedure, adjudged the case, *inter alia*, as follows: (i) The Applicant's case was remanded to the Administration for concurrence on the institution of the correct procedure required under ST/AI/1999/16; (ii) The Respondent, within 14 days of the publication of this judgment, that is, by or before 24 May 2010, to inform the Tribunal of the progress made towards such concurrence; (iii) If the Administration concurred, the correct procedure was to be instituted within three months of the publication of this judgment, that is, by or before 10 August 2010, and the Administration was to notify the Tribunal of the outcome by that date; (iv) Following the notification to the Tribunal of the outcome at part (iii) above, or if the Administration did not concur on the institution of the correct procedure required

under ST/AI/1999/16 as required under paragraph (ii) above, the Tribunal would publish a separate judgment on the merits of the case. On 3 June 2010, the Respondent informed the Tribunal that it is unable to concur with the institution of the procedures under ST/AI/1999/16, until such time as the UNJSPB Standing Committee has reconsidered the Applicant's request after carrying out the required checks concerning the uncertain and disputed facts with regard to her injury.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Frechon

Entity

ICTR

Case Number(s)

UNDT/NBI/2009/039

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

14 Jul 2010

Duty Judge

Judge Izuako

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Fixed-term appointment

Non-renewal

Applicable Law

Administrative Instructions

- ST/AI/1999/16

Former Staff Regulations

- Regulation 9.1

UNDT RoP

- Article 20

UNJSPF Regulations

- Article 33(a)

Related Judgments and Orders

UNDT/2010/089

2010-UNAT-003