

UNDT/2010/161, Ahmed

UNAT Held or UNDT Pronouncements

The various letters of appointment that the applicant had received in the past contained a provision of non-expectancy of renewal. The applicant's main contention was that the non-renewal of his fixed-term appointment was an act of retaliation because he reported some allegations of financial fraud. The respondent's primary submission is that the non-renewal of the applicant's fixed-term appointment was based on unsatisfactory performance as evidenced in some PAS reports, which had later been upheld by a rebuttal panel. UNDT found that the decision not to renew his fixed-term appointment was taken on proper grounds in accordance with the appropriate procedures and that there was no retaliation against him for bringing to the attention of management allegations of financial fraud and misconduct. These allegations were properly investigated and were found to be lacking in substance. Outcome: Application dismissed.

Decision Contested or Judgment/Order Appealed

The applicant's fixed-term appointment was not renewed after he had served on a series of fixed-term appointments from June 1985 to December 2005.

Legal Principle(s)

It is clear from several judgments of the former Administrative Tribunal as well as the Dispute Tribunal that an expectancy of renewal may be created by countervailing circumstances. Examples of such circumstances include arbitrary or other extraneous motives on the part of the Administration and particularly the failure to accord to the staff member her/his due process rights. Accordingly, whilst it may be argued with force that there is no automatic right to the renewal of a fixed-term appointment, it is clear that any decision should be based on proper grounds and in conformity with due process. However, the mere fact of a series of

consecutive renewals cannot of itself be conclusive of a legitimate legal expectancy having been formed. Other things being equal, they are nevertheless very important considerations to be taken into account and may, in an appropriate case, require explanation.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ahmed

Entity

UNICEF

Case Number(s)

UNDT/NY/2010/014/AT/1604

Tribunal

UNDT

Registry

New York

Date of Judgement

9 Sep 2010

Duty Judge

Judge Meeran

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Fixed-term appointment

Ethics office

Whistleblower

Investigation

Non-renewal

Applicable Law

Staff Rules

- Rule 110.1