UNDT/2010/165, Jaen

UNAT Held or UNDT Pronouncements

UNDT found the application receivable and determined that the post number provided by the ICSC for reclassification purposes was that of a Compensation Officer with functions distinct from those performed by the applicant. Therefore, in the absence of a properly budgeted post, the request of the ICSC was a request for classification advice prior to a budgetary submission, which required General-Assembly approval. The reclassification proposal was not included in the budgetary submission to the General Assembly, and, accordingly, the General Assembly did not approve the proposed reclassification and there was no basis for OHRM to issue a final classification decision and classification notice. UNDT further held that the Controller's participation in the budget preparation process was not improper and that the applicant's contention that the failure to reclassify the post was tainted by prejudice or discrimination was unsubstantiated. Outcome: The application was dismissed in full.

Decision Contested or Judgment/Order Appealed

The applicant, an Administrative Assistant in the International Civil Service Commission (ICSC), contests the decision not to reclassify the P-2 post encumbered by her to the P-3 level.

Legal Principle(s)

Appealable administrative decision, receivability: The reference in Andronov to the "individual application" of the decision should not be interpreted to mean that for the appeal to be receivable the decision must apply only to the applicant. Instead, to the extent it should be accepted, it is to be interpreted to mean that the decision has to affect the applicant's—and not someone else's—rights. If the Organisation is in breach of a staff member's contract, it should not matter whether the breach took place as a result of an action that affected one or several staff members. When a staff member alleges that the contested decision is not in compliance with the contract of employment, the Tribunal will be competent to hear and decide the case under art. 2.1 of its Statute.Authority of the General Assembly in budgetary matters and deployment of posts: The General Assembly has the ultimate authority to consider and approve Proposed Programme Budgets and to deploy and redeploy posts. It would not be proper to circumvent the established budgetary procedures by shifting the posts approved by the General Assembly for specific functions to create other posts with different functions without the General Assembly's approval.Post reclassification requiring budgetary submission and General Assembly approval: If reclassification requires the General Assembly's approval and such approval was not obtained, there is no basis for OHRM to issue a classification notice.Authority of the Controller: The Controller has significant role with respect to the preparation of the proposed budget and budgetary submissions.

Outcome
Dismissed on merits
Full judgment
Full judgment
Applicants/Appellants
Jaen
Entity
ICSC
Case Number(s)
UNDT/NY/2009/098
Tribunal

UNDT
Registry
New York
Date of Judgement
17 Sep 2010
Duty Judge
Judge Carstens
Language of Judgment
French
English
Issuance Type
Judgment
Categories/Subcategories
Classification (post)
Jurisdiction / receivability (UNDT or first instance)
Subject matter (ratione materiae)
Applicable Law
Administrative Instructions

- ST/AI/1998/9
- ST/AI/1999/8
- ST/AI/2002/4
- ST/AI/2004/1
- ST/AI/2006/3

Financial Regulations and Rules

- Regulation 2.1
- Regulation 2.9

Laws of other entities (rules, regulations etc.)

- ICSC Statute

Secretary-General's bulletins

- ST/SGB/2003/7

Staff Rules

- Rule 2.1

UN Charter

- Article 17

UNDT Statute

- Article 2.1

Related Judgments and Orders
UNDT/2009/028

UNDT/2009/035
UNDT/2009/070
UNDT/2010/006
UNDT/2010/055