

UNDT/2011/146, Rawat

UNAT Held or UNDT Pronouncements

An application for a suspension of action is in the nature of an injunction, the purpose of which is to maintain the status quo between parties until the order lapses. Article 10 of the UNDT Statute states in no uncertain terms that there is no appeal against such an order. The Tribunal stated that the United Nations Appeals Tribunal (“UNAT”) had opened the door to an appeal against a Suspension of Action (“SOA”) decision by stating that the prohibition to an SOA appeal against a decision was an exception. UNAT meant thereby that it would be left at the discretion of the UNAT whether an appeal against a SOA decision would be received or not. This opinion of the UNAT was being used by the Office of Legal Affairs (“OLA”), to file appeals against SOA decisions. The strategy of filing an appeal had been construed as operating as a stay of the suspension decision thus putting an end to the status quo; between parties with the result that the Administration had the full power to implement the much contested decision. The new found trend of the OLA boiled down to making a mockery of articles 13 and 14 of the UNDT Rules of Procedure and Article 8 of the UNDT Statute that specifically conferred a power on the UNDT to suspend an administrative action if the three conditions namely, unlawfulness, urgency and irreparable damage were satisfied. Two major consequences flowed from this. First, the power of the Tribunal to take an interim decision was being undermined and secondly the consequences for the staff member may be catastrophic from the point of view of his or her career. However unpalatable the reason sounded it was the blunt reality that the Tribunal had to face in the light of the new strategy of OLA.

Decision Contested or Judgment/Order Appealed

The Applicant sought a suspension of action of the decision not to renew his appointment beyond 31 July 2011.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Outcome Extra Text

The Tribunal dismissed the Applicant's request for suspension of action of the decision not to renew his fixed-term appointment beyond 30 June 2011.

Full judgment

[Full judgment](#)

Applicants/Appellants

Rawat

Entity

ICTR

Case Number(s)

UNDT/NBI/2011/031

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

25 Aug 2011

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Suspension of action / interim measures

Applicable Law

UNDT RoP

- Article 13
- Article 14

UNDT Statute

- Article 2.2