

UNDT/2011/189, Garcia

UNAT Held or UNDT Pronouncements

The UNDT found the requirement of prima facie unlawfulness to be satisfied on two issues—(i) whether the implementation of the contested decision would have the prejudicial effect of unilaterally altering the Applicant’s contract by introducing a new provision that is detrimental to her acquired rights; and (ii) whether the short notice given to the Applicant of the imposition of the 31-day period of ineligibility for re-appointment was in violation of the principles of due process, good faith and fair dealing, and the Organization’s obligation to regularly inform its employees concerning the various rules and regulations. The UNDT found that the requirements of urgency and irreparable damage were also satisfied. The application for suspension of action was granted. Acquired rights: The Judgment discusses the general principle of acquired rights. Break in service as administrative decision with continuing effect: The decision to impose a requirement of a 31-day period of ineligibility for re-appointment on a temporary contract has continuing legal effect on the applicant’s legal rights and therefore can be suspended.

Decision Contested or Judgment/Order Appealed

The Applicant filed an application for suspension of action, pending the outcome of management evaluation, of the implementation of the decision to impose on her, pursuant to ST/AI/2010/4/Rev.1, a 31-day period of ineligibility for re-employment on a temporary appointment after the expiration of her current fixed-term appointment.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Garcia

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2011/084

Tribunal

UNDT

Registry

New York

Date of Judgement

4 Nov 2011

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Irreparable damage

Particular urgency

Prima facie unlawfulness

Applicable Law

Administrative Instructions

- ST/AI/2010/4/Rev.1

Staff Regulations

- Regulation 12.1

UNDT Statute

- Article 2.2

Related Judgments and Orders

UNDT/2009/004

UNDT/2009/096

UNDT/2009/071

UNDT/2009/092

UNDT/2011/126

UNDT/2011/184

UNDT/2011/185

UNDT/2011/186