

UNDT/2011/198, Chattopadhyay

UNAT Held or UNDT Pronouncements

Consultations: “Consultation with the appropriate staff representative bodies” does not mean that for an administrative instruction to enter into force, it must necessarily meet the agreement of the staff representatives. Acquired right: An acquired right is breached only when an amendment adversely affects the balance of contractual obligations by altering fundamental or essential terms of employment. Irreparable damage: Mere financial loss is not enough to satisfy the test of irreparable damage. Harm to professional reputation and career prospects, or harm to health, or sudden loss of employment may constitute irreparable damage. The particular factual circumstances of each case have to be taken into account. A finding of irreparable damage cannot be based on pure speculation. Outcome: The application for suspension of action was rejected.

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 notified to him on 31 October 2011 to impose on him, 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 his transitional fixed-term appointment on 30 November 2011. Noting that the Applicant’s branch had requested his recruitment on a temporary appointment until 31 December 2011 at the expiration of his fixed-term appointment, UNDT found the application to be receivable. The Tribunal found however that the test of prima facie unlawfulness was not met, noting in particular that the Applicant had failed to present a fairly arguable case that the contested decision was in breach of an acquired right. UNDT further found that the requirement of irreparable damage was not satisfied either.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Chattopadhyay

Entity

OHCHR

Case Number(s)

UNDT/GVA/2011/080

Tribunal

UNDT

Registry

Geneva

Date of Judgement

21 Nov 2011

Duty Judge

Judge Laker

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

Secretary-General's bulletins

- ST/SGB/2009/4

Staff Rules

- Rule 4.17

UNDT Statute

- Article 2.1
- Article 2.2