

UNDT/2012/015, Jain

UNAT Held or UNDT Pronouncements

The Tribunal found that the contested requirement was not inconsistent with the intent of the General Assembly in its resolutions 37/126 and 51/226 and that it fell within the High Commissioner's discretion to introduce this requirement in view of UNHCR operational realities. Whereas exceptions were made to the contested requirement for medical reasons based on the provisions of the Procedural guidelines for appointments, postings and promotions, the Applicants were not in the same situation as the staff members who were granted such exceptions and therefore they cannot claim that UNHCR did not comply with the obligation of equal treatment.

Decision Contested or Judgment/Order Appealed

The Applicants contest the decision whereby the High Commissioner for Refugees considered that they were not eligible for consideration for conversion of their fixed-term appointments into indefinite appointments because they did not meet the requirement of two years of service in a category D/E duty station. They claim that the High Commissioner acted ultra vires in adding the additional requirement of two years of service in a category D/E duty station and that this requirement precludes reasonable consideration for conversion.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Jain

Entity

UNHCR

Case Number(s)

UNDT/GVA/2011/86

Tribunal

UNDT

Registry

Geneva

Date of Judgement

29 Jan 2012

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Fixed-term appointment

Permanent appointment

Applicable Law

GA Resolutions

- A/RES/31/126
- A/RES/51/226

Other UN issuances (guidelines, policies etc.)

- UNHCR IOM/04-FOM/05/2011
- UNHCR IOM/FOM/75/2003