

UNDT/2012/025, Ba

UNAT Held or UNDT Pronouncements

The Tribunal found that the Assistant Secretary-General had conducted a fair review and had not merely rubber-stamped the Executive Secretary's recommendation and that some of the allegations appeared well-founded so that in principle consideration of administrative leave was not improper. However, the feasibility of redeployment was not properly considered by the Executive Secretary, who had informed the ASG that there were no suitable posts available and that it would in any event be costly to redeploy the Applicant. In fact it appeared that there was a post available, to which the Applicant had applied. Cost should not be a consideration. It was clear that the Executive Secretary did not want the Applicant redeployed because of performance- related issues, and this tainted the whole decision-making process, rendering it *prima facie* unlawful. The matter was urgent and the Applicant would suffer irreparable harm if the wrong was allowed to continue. Placement on administrative leave with pay, just as without pay, is an administrative decision with a continuing legal effect. Redeployment should be the norm where a staff member is not a danger to the staff or property of the Organization, cost is not a factor to take into consideration when deciding whether or not to redeploy a staff member. Urgency means 'pressing' and in the case of a continuing unlawful administrative action, the urgency also continues.

Decision Contested or Judgment/Order Appealed

The Applicant was placed on administrative leave with full pay and sought suspension of action pending management evaluation pursuant to article 13 of the Rules of Procedure.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Respondent ordered to return the Applicant to her post or to redeploy her elsewhere forthwith.

Full judgment

[Full judgment](#)

Applicants/Appellants

Ba

Entity

UNECA

Case Number(s)

UNDT/NBI/2012/7

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

15 Feb 2012

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Particular urgency

Applicable Law

Administrative Instructions

Secretary-General's bulletins

- ST/SGB/2008/5
- ST/SGB/371

Staff Rules

- Rule 10.4

UNDT RoP

- Article 13

Related Judgments and Orders

UNDT/2012/002

UNDT/2009/092

UNDT/2011/212

UNDT/2011/040

UNDT/2011/126