UNDT/2012/208, Egglesfield

UNAT Held or UNDT Pronouncements

The UNDT found that the contested decision was based on improperly imposed conditions not stipulated under staff rule 4.18 and thus lacked proper legal basis. Further, it was arbitrary and manifestly unreasonable. Therefore, the contested decision was unlawful. The UNDT found that, had the discretion been properly exercised on the stipulated conditions, the Applicant would have been reinstated in service and shall be treated as such. The UNDT ordered rescission of the contested decision. The UNDT ordered that the Applicant be deemed as reinstated in service and that proper adjustments be made to his entitlements and benefits in line with the judgment and staff rule 4.18.

Decision Contested or Judgment/Order Appealed

The Applicant contested the Respondent's refusal to reinstate him to service following his separation from the United Nations Mission in Côte d'Ivoire ("UNOCI") and his re-appointment to the United Nations Assistance to the Khmer Rouge Tribunals ("UNAKRT").

Legal Principle(s)

Purpose of reinstatement under staff rule 4.18: The purpose of staff rule 4.18 is to confer continuity of employment on former staff members with fixed-term or continuing appointments who have been re-employed, and who may then be reinstated under staff rule 4.18, on the same type of contract within 12 months of their separation. Conditions for reinstatement under staff rule 4.18: A plain reading of staff rule 4.18 is that the only stipulated qualifying criteria for a staff member's reinstatement is that he should have held a fixed-term or continuing appointment, and that he was re-employed under a fixed-term or a continuing appointment within twelve months of his separation. No further conditions for reinstatement have been established by the Secretary-General under staff rule 4.18.

Outcome
Judgment entered for Applicant in full or in part
Outcome Extra Text

Only specific performance (including rescission with in lieu compensation)

Full judgment
Full judgment
Applicants/Appellants
Egglesfield
Entity
UN Secretariat
Case Number(s)
UNDT/NY/2012/018
Tribunal
UNDT
Registry
New York
Date of Judgement
31 Dec 2012

Duty Judge
Judge Carstens
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Appointment (type)
Applicable Law
Administrative Instructions

- ST/AI/234/Rev.1

Staff Rules

- Rule 4.18

Related Judgments and Orders
UNDT/2012/056
2011-UNAT-110