

UNDT/2013/154, Ruyooka

UNAT Held or UNDT Pronouncements

Estoppel - It was argued on behalf of the Respondent that the Applicant has waived or is estopped from enforcing his right to challenge the contested decision since at the Applicant's request, the Administration in good faith deferred the effective date of termination of his appointment to enable him to acquire a pension benefit. Given the circumstances of this case, the Applicant had neither waived nor was he estopped from enforcing his rights to challenge the contested decision. The principles of waiver and estoppel will not apply in such a case to deny an Applicant from enforcing his legal rights, if any. Due Process - The decision to terminate the Applicant's appointment under staff regulation 9.3 and staff rule 9.6(c)(i) was lawful. The decision was motivated by the necessities of service which required the reduction of the number of staff in UNMISS.

Decision Contested or Judgment/Order Appealed

On 4 May 2012, the Applicant filed an Application contesting the decision to terminate his appointment with the United Nations Mission in South Sudan (UNMISS) on 31 December 2011 on the grounds that the decision was "discriminatory, vindictive, selective, inequitable unlawful and lacked transparency.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ruyooka

Entity

UNMISS

Case Number(s)

UNDT/NBI/2012/29

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

2 Dec 2013

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Separation from service

Termination of appointment (see also, Termination of appointment)
Termination (of appointment)

Applicable Law

Staff Regulations

- Regulation 9.3(a)(i)

Staff Rules

- Rule 9.3(c)(i)