

UNDT/2014/020, Munir

UNAT Held or UNDT Pronouncements

Legitimate expectation – The Country Office’s Core Management Group meeting of 29 February 2012 decided that all international staff, including the Applicant, would be extended for one year and the Applicant knew of the decision. This Tribunal finds that the decision taken at a regular and proper Country Office Core Management Group meeting to extend the contract of a staff member, which decision is embodied in open recorded minutes and accessible to staff members, carries far greater weight than any ‘express promise’ that can be made to the said staff member about extending his contract. The Applicant therefore, had a legitimate expectation of a one-year extension of his secondment contract.

Secondment – There is no automatic expiry of a secondment after its third year within the United Nations Common System if the parties to the secondment are agreed on an extension.

Administrative leave - Placement on administrative leave is not a disciplinary action by itself nor does it constitute a finding of guilt. Every staff member is entitled to the basic human right to dignity especially in the work place. No manager, however highly placed, should breach a staff member’s right to dignity in the workplace, especially when the staff member in question does not become unruly, noisy or constitute a nuisance; by ordering a security officer in the full view of others to march him out of the work premises. The UNDP Legal Framework does not stipulate or imply in any way that staff to be placed on administrative leave be humiliated publicly. The action of making the Applicant a public spectacle in the unwarranted display conducted and supervised by the UNDP Resident Representative breached the duty of confidentiality in investigations as the treatment of the Applicant in the circumstances was no better than being placed in handcuffs in public view. It did not speak well either for the humanitarian image of the UNDP.

Management evaluation - The management evaluation was conducted with a total lack of independence, undue partiality and a bias towards justifying the contested

actions of the UNDP Resident Representative. The management evaluation simply reproduced the untrue reasons given by the UNDP Resident Representative for his decision and argued a case for him. Instead of an independent and impartial review, what the UNDP management evaluation has done is to subvert and demean its role in the internal justice system.

Accountability - Managers and agents of the Administration, who in the course of carrying out their official duties and responsibilities to the Organizations, prefer to be guided not by the United Nations Charter and applicable rules and standards but by their personal whims to subvert the outcomes of the Organization's processes ought to be called to account. The Tribunal accordingly refers the UNDP Resident Representative to the Administrator of the UNDP for the purpose of considering what action should be taken in respect of his unwarranted public humiliation of the Applicant in the UNDP Country Office premises in Sudan on 23 March 2012; and for his lack of integrity in the process leading up to his unilateral non-renewal of the Applicant's secondment and his replacement.

The Tribunal orders the Respondent to pay the Applicant compensation of nine months' net base salary for the occasioned separation from service as a result of the unilateral decision of the UNDP Resident Representative to overrule the earlier decision of the Country Office's Core Management Group to extend the Applicant's secondment by one year. The Applicant is entitled to USD16,000 as compensation for moral damages occasioned by humiliation caused him in the workplace and the burden and consequences of a two-year old investigation.

Accountability referral: the case is referred to the Administrator of UNDP under art. 10.8 of the Statute of the Tribunal for the purpose of considering what action should be taken in respect of the conduct of the Resident Representative for his unwarranted public humiliation of the Applicant in the workplace and lack of integrity in the process leading up to the non-renewal of the Applicant's secondment.

Decision Contested or Judgment/Order Appealed

The Applicant filed an Application contesting the non-extension of his secondment to UNDP on the grounds that the decision was based on extraneous and prejudicial considerations.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Munir

Entity

UNDP

Case Number(s)

UNDT/NBI/2012/48

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

18 Feb 2014

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Discrimination and other improper motives

Management Evaluation

Non-renewal

Separation from service

Referral for accountability

Applicable Law

Laws of other entities (rules, regulations etc.)

Other UN issuances (guidelines, policies etc.)

- UNDP Legal Framework for Addressing Non-Compliance with UN Standards of Conduct (6 November 2007)

Secretary-General's bulletins

- ST/SGB/2010/9

UNDT Statute

UNRWA DT Statute

- Article 10.8

Related Judgments and Orders

UNDT/2012/049

UNDT/2009/034

UNDT/2009/017

UNDT/2010/154

2011-UNAT-153

2011-UNAT-138