

UNDT/2014/121, Lee

UNAT Held or UNDT Pronouncements

The Tribunal found that the acts described under (1), (4) and (5) did not meet the definition of a challengeable administrative decision, whereas the Applicant's contention with regard to (2) was moot since her appointment had been extended by the Organization and she was not separated after 31 December 2013. The Tribunal further rejected the Applicant's contention made under (3), as it considered that she did not fall under the categories of staff members for which the Assistant Secretary-General for Human Management has the authority of exceptional placement outside the normal selection process, in accordance with sec. 11.1(b) of ST/AI/2010/3. The application was rejected in its entirety.

Decision Contested or Judgment/Order Appealed

The Applicant challenged five decisions taken by the Administration, namely (1) the abolishment of the post she was encumbering, (2) her separation and non-renewal of her appointment, (3) the refusal to assist her in the exceptional placement against another post, (4) her release on temporary assignment to another office without a lien to her post, and (5) the refusal to provide her with information regarding accountability for certain posts and resources.

Legal Principle(s)

Abolishment of posts: In case a post is abolished by the General Assembly ("GA") in the context of its budgetary powers, and not by the Secretary-General of the United Nations as Chief Administrative Officer of the Organization, the Tribunal is not competent to examine an application directed against the post abolishment, since this is not an "administrative" decision under the terms of its Statute. It is not for the Tribunal to extend its powers by "bridging the gap" that may exist regarding the scope of judicial review of preparatory steps and the respective GA decision to

abolish specific posts. Receivability: In the absence of specific rules creating a duty for the Administration, there is no legal basis for an applicant to claim a specific right and a breach of his or her substantive contractual entitlements or procedural rights.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Lee

Entity

DM

Case Number(s)

UNDT/GVA/2014/1

Tribunal

UNDT

Registry

Geneva

Date of Judgement

30 Sep 2014

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

- ST/AI/2010/3

Secretary-General's bulletins

- ST/SGB/2013/4

Staff Rules

- Rule 9.6 (c)(i)
- Rule 9.6.(b)

UNDT Statute

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2013/147

UNDT/2014/099

UNDT/2014/100

UNDT/2014/101

2012-UNAT-238
2014-UNAT-457
2013-UNAT-304
2014-UNAT-401
2013-UNAT-349