

UNDT/2014/145, Ngenda

UNAT Held or UNDT Pronouncements

If the Applicant was labouring under the belief that pursuant to the Agreement, the Respondent was giving her a guarantee of a new post or that she would be laterally transitioned, that belief was misplaced. Nothing in the Agreement or any evidence before the Tribunal suggests that the Respondent was in a position to simply “give” the Applicant another position within UNEP. Positions in the Organizations are not filled or presumed to be filled according to the will of managers but are subject to the Staff Rules and Regulations. The Applicant was not justified in harbouring a legitimate expectation that the Respondent would bypass existing rules and regulations to offer her a post. Whether the Applicant was well advised to sign the Agreement or not is a matter that is not within the province of the Tribunal to determine. However the Tribunal cannot help noting that Clause 7 of the Agreement might have created the, albeit wrong, impression, that the Applicant would be offered a job by the Respondent.

Decision Contested or Judgment/Order Appealed

The Parties entered into a Settlement and Release Agreement (Agreement) to “settle and resolve all matter arising out of or related to UNEP’s decision, for budgetary reasons, to not renew [the Applicant’s] contract when it expires on 4 July 2012.” As part of the Agreement, UNEP extended the Applicant’s appointment through to 31 December 2012 and agreed to make “good faith efforts [...] to help find [her] a suitable post, either within UNEP or outside UNEP [...] either on or before her contract expires”. The Applicant challenged UNEP’s decision, pursuant to article 2.1(c) of the UNDT Statute and article 7.4 of the Rules of Procedure, to “not comply with the spirit of the settlement agreement”.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ngenda

Entity

UNEP

Case Number(s)

UNDT/NBI/2013/13

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

18 Dec 2014

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

No expectancy of renewal

Separation from service

Applicable Law

UNDT RoP

- Article 7.4

UNDT Statute

- Article 2.1(c)