

UNDT/2015/076, Faye

UNAT Held or UNDT Pronouncements

The Tribunal provided guidance to the Applicant at a case management discussion and issued a clear warning that he risked facing an order for costs under art. 10.6 of the Dispute Tribunal's Statute if he was unable to present an effective challenge to the legal contentions set out in the Respondent's reply. The Applicant confirmed that he wished to proceed with his case and filed further submissions. The Tribunal found that the Applicant had no legal standing to contest the decision because (a) not being eligible to apply for the post, he had no stake in the administrative decision; and (b) he was seeking to enforce his right to consultation as a staff representative. The General Assembly had considered and rejected a proposal to grant staff associations standing before the Dispute Tribunal. The Tribunal found that the Applicant had manifestly abused the proceedings and ordered costs against him in the sum of USD500 under art. 10.6 of the Dispute Tribunal's Statute.

Decision Contested or Judgment/Order Appealed

The Applicant, a staff member at the GS-5 level and a staff representative, contested the decision to issue a job opening for a P-5 post at the UNJSPF that included a "Special Notice" indicating that staff members applying for the post would exceptionally not be subject to the lateral move requirement for promotion to the P-5 level set out in sec. 6.5 of the Staff Selection System.

Legal Principle(s)

No direct legal consequences
The facts of this case are indistinguishable from Pellet 2010-UNAT-073. The Applicant challenges the application of a policy that has no direct legal consequences affecting him, because he is not eligible to apply for the Post. No standing to enforce rights as a staff representative
The General Assembly considered and rejected a proposal to grant staff associations standing before the

Dispute Tribunal to bring applications to (a) enforce the rights of staff associations; (b) appeal an administrative decision on behalf of a group of named staff members, or (c) support an application filed by one or more staff members (see Annex I of the Report of the Secretary-General on Administration of Justice, A/62/782, 3 April 2008). The proposed articles were not included in the Dispute Tribunal's Statute. The Tribunal considers that the Applicant is acting in his capacity as a staff representative to enforce his rights as a staff representative, and the rights of staff associations in general, to be consulted about human resources policies. The Tribunal does not have jurisdiction to consider such a claim. Costs The Applicant may well be frustrated by what he perceived as a failure to consult the staff representatives on a matter over which they feel that they had a right to be consulted. However, a challenge before the Tribunal is wholly inappropriate in circumstances where it is clear that the Tribunal does not have power to grant the relief sought. The manner in which these proceedings have been conducted by the Applicant constitutes a manifest abuse of process.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Faye

Entity

UNJSPF

Case Number(s)

UNDT/NY/2014/87

Tribunal

UNDT

Registry

New York

Date of Judgement

2 Sep 2015

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Costs

Jurisdiction / receivability (UNDT or first instance)

Personal (ratione personae)

Applicable Law

Administrative Instructions

- ST/AI/2010/3

Staff Regulations

- Regulation 8.1
- Regulation 8.2

UNDT Statute

- Article 10.6

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2014/132

2010-UNAT-001

2010-UNAT-073

2013-UNAT-370

2014-UNAT-476

2015-UNAT-566

2013-UNAT-328