

UNDT/2019/039, Sera

UNAT Held or UNDT Pronouncements

The Tribunal held that there is an appropriate correlation between the rating and the explanation as, in her comments, the FRO explicitly provides the factual bases for the negative performance rating. The Applicant never submitted a written statement to object against the performance rating and therefore the rating stands unchallenged. The Tribunal held that the Applicant failed to prove that UNJSPF did not act fairly, justly or transparently. The Tribunal held that it follows from the Applicant's self-appraisal that she herself indicated that she had received guidance, feedback and training from her colleagues and the FRO. The Tribunal held that the Applicant and the FRO holding diametrically different opinions about the standard of the Applicant's performance, which the Applicant seems to have found satisfactory while the FRO thought the opposite, has no impact on whether the Applicant received guidance. The Tribunal held that the Applicant was unable to establish ulterior motive in the decision not to renew her temporary appointment.

Decision Contested or Judgment/Order Appealed

The decision not to renew the Applicant's temporary appointment beyond 12 June 2016, alleging that her negative performance appraisal was incorrect as a matter of fact, that she did not receive adequate guidance, feedback and training, and that the non-renewal was tainted by ulterior motives.

Legal Principle(s)

The Tribunal's role is not to replace the decision-maker by assessing the correctness of the contested decision but, depending on the parties' claims, rather to assess (a) the legality of the decision, (b) the appropriateness on how it was reached, and/or (c) whether the Administration acted properly within its discretionary powers. The Tribunal held that in principle there is no legal basis for finding that only because an Applicant did not file a written protest against the appraisal of her performance as set out in the signed performance evaluation form, she/he is barred from questioning the propriety of the performance assessment as a matter of fact in a non-renewal case before the Tribunal. The Tribunal held that as long as one of the reasons provided for an administrative decision is proper, it does not matter if other explanations were not. The Tribunal held that fact that the working relationship between an Applicant and their FRO is not good does not by itself prove that a decision not to renew the Applicant's temporary appointment was influenced by ulterior motives.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Sera

Entity

UNJSPF

Case Number(s)

UNDT/NY/2016/046

Tribunal

UNDT

Registry

New York

Date of Judgement

7 Mar 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Non-renewal

Applicable Law

Administrative Instructions

- ST/AI/2010/4/Rev.1
- ST/AI/2010/5

Secretary-General's bulletins

- ST/SGB/2008/5

Related Judgments and Orders

2010-UNAT-084

2016-UNAT-686

2011-UNAT-115