

UNDT/2019/073, Nouinou

UNAT Held or UNDT Pronouncements

The Applicant's appeal against her own selection for the TJO is not receivable because it is time-barred under staff rule 11.2(c). As no reasonable remedy would be available for the Tribunal to rectify the situation to the relevant applicant's advantage, the appeal would only be of speculative interest. In the present case, the Applicant basically appeals against herself being selected for and appointed to a job, which is evidently an administrative decision to her advantage. Consequently, the Applicant's appeal of the decision to recruit her against the TJO is not receivable as it does not concern a decision that is appealable under the Tribunal's Statute, arts. 2.1(a) and 10.5(b). The Applicant has not requested management evaluation of her performance appraisal, her appeal against this appraisal is not receivable under art. 8 of the Statute of the Dispute Tribunal and staff rule 11.2. The Tribunal finds that none of the tasks that were subsequently assigned to the Applicant, as described by herself, would appear to have been unreasonable for someone in her position as a Programme Management Assistant in OCT. As a matter of substance, the Applicant's claim in this regard, if any, is also rejected. The Applicant has not been able to establish any firm commitment to renew her temporary appointment, be it in writing or not, and therefore has not established her burden of proof. There was no impropriety in the OCT's selection of a candidate from the roster shortly after the job opening had been formally advertised. The Applicant has failed to substantiate that the reason provided for the non-renewal of her temporary appointment was unlawful.

Decision Contested or Judgment/Order Appealed

The Applicant contests various issues in connection with her recruitment and employment with OCT and the subsequent non-renewal of this appointment.

Legal Principle(s)

The Dispute Tribunal has the authority to examine its competence and thereby jurisdiction on its own, or in Latin legal terms: sua sponte. A party in whose favour a case has been decided is not permitted to appeal against the judgment on legal or academic grounds. The onus is on the applicant to substantiate an allegation on bad faith, which will, however, often have to be proved by circumstantial evidence. The Applicant must clearly identify a specific administrative decision that is being challenged. An applicant has a statutory burden of proving non-compliance with the terms of his appointment or his contract of employment. Temporary appointments do not carry any expectancy, legal or otherwise, of renewal. The Appeals Tribunal's jurisprudence requires a promise to renew a fixed-term appointment, at least, to be in writing. It is an applicant's onus to prove that s/he had a legitimate expectation of renewal or that the non-renewal decision was otherwise inappropriate. The burden is on the staff member to show a legitimate expectancy of renewal or that the non-renewal of his fixed-term appointment was arbitrary or motivated by bias, prejudice or improper motive against the staff member. At least upon a staff member's request, the Organization must provide her/him with an appropriate reason for a non-renewal decision.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Nouinou

Entity

UNS

Case Number(s)

UNDT/NY/2018/077

Tribunal

UNDT

Registry

New York

Date of Judgement

1 May 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Separation from service

Expiration of appointment (see also, Non-renewal)

Applicable Law

Administrative Instructions

- ST/AI/2010/4

Staff Regulations

- Regulation 4.5(b)
- Regulation 9.1

Staff Rules

- Rule 11.2 (c)
- Rule 4.12

UNDT Statute

- Article 10.5
- Article 8

Related Judgments and Orders

2011-UNAT-182

2015-UNAT-526

2016-UNAT-643

2010-UNAT-048

2014-UNAT-466

2010-UNAT-012

2013-UNAT-298

2016-UNAT-686

2010-UNAT-049

2014-UNAT-419

2018-UNAT-821

2014-UNAT-405

2016-UNAT-660

2014-UNAT-411

2018-UNAT-849

2015-UNAT-503

2012-UNAT-201