

UNDT/2019/105, Rodriguez

UNAT Held or UNDT Pronouncements

The first issue is determining the Applicant's date of recruitment as that date establishes the legal framework for the Applicant's eligibility for ASHI. Under the applicable legal framework, staff members recruited before 1 July 2007 would be eligible for ASHI after five years of eligible service, whereas staff members recruited after 1 July 2007 would be eligible for ASHI after 10 years of eligible service. The Applicant held several appointments of limited duration in 2005-2010 before she was re-employed by UNDP on a fixed-term appointment in November 2010. The Tribunal found that, under staff rule 4.17 governing re-employment and Couquet 2015-UNAT-574, the Applicant was to be treated as having a new appointment upon her re-employment without regard to any period of former service. Therefore, the Applicant was considered to have been recruited after 1 July 2007. The second question is then whether the Applicant met the requirement of 10 years of eligible service. The Tribunal found that the Applicant did not meet 10 years requirement as her service under an appointment of limited duration and her insurance coverage under her spouse's UN health insurance plan after her retirement did not count towards the 10 years requirement under ST/AI/2007/3.

Decision Contested or Judgment/Order Appealed

The decision to find the Applicant ineligible for After Service Health Insurance (ASHI) on the basis that her participation in the contributory health insurance plan did not meet the eligibility criteria of 10 years.

Legal Principle(s)

The role of the Tribunal is to determine if the administrative decision being challenged is legally and procedurally correct, reasonable and fair, and proportionate. During this process the Dispute Tribunal is not conducting a merit-

based review, but a judicial review. Judicial review is more concerned with examining how the decision-maker reached the impugned decision and not the merits of the decision-maker's decision.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Rodriguez

Entity

UNDP

Case Number(s)

UNDT/NY/2018/010

Tribunal

UNDT

Registry

New York

Date of Judgement

7 Jun 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Health (medical) and/or dental insurance

Applicable Law

Administrative Instructions

- ST/AI/2007/3

Staff Rules

- Rule 4.17

Related Judgments and Orders

2010-UNAT-084

2015-UNAT-574