

UNDT/2020/128, Mallick

UNAT Held or UNDT Pronouncements

The Applicant's appointment was not renewed due to her own requests to leave prior to the end of her four-year rotation in that position. The record shows that the Applicant was well aware of the reasons for the non-renewal of her position and would have understood the contents of the notification letter related directly to her requests to Director and Deputy Director to leave her position. The record clearly demonstrates that the Applicant's post was advertised due to her request to leave UNDP Guyana prior to the end of her four-year rotation. The Applicant cites no impropriety in the subsequent non-selection for the re-advertised position or has challenged the selection process. The Applicant has no right to be informed of the contract status of her successor. There is no indication that the issues alleged by the Applicant were connected to the non-renewal of her appointment. On the contrary, the record confirms that the Applicant wanted to leave UNDP for other reasons, such as to pursue private sector opportunities and for family reasons. Accordingly, the Tribunal finds that the Applicant failed to show that the contested decision was tainted by ulterior motives.

Decision Contested or Judgment/Order Appealed

Non-renewal of the Applicant's fixed-term appointment.

Legal Principle(s)

A fixed-term appointment does not carry any expectancy of renewal and expires automatically without prior notice on the expiration date pursuant to staff regulation 4.5(c) and staff rules 4.13(c) and 9.4. The Administration is, nevertheless, required to provide a reason for such a non-renewal upon the relevant staff member's request, and this reason must be lawful and based on correct facts. An international organization necessarily has power to restructure some or all of its departments or units. The Tribunal will not interfere with a genuine organizational restructuring even though it may have resulted in the loss of employment of staff. However, like with any other administrative decision, the Administration has the duty to act fairly, justly and transparently in dealing with staff members. The Dispute Tribunal determines if the decision is legal, rational, procedurally correct, and proportionate. The Tribunal can consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse. But it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to him. Nor is it the role of the Tribunal to substitute its own decision for that of the Secretary-General. The burden of proving improper motives rests with the person making the allegation.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Mallick

Entity

UNDP

Case Number(s)

UNDT/NY/2018/078

Tribunal

UNDT

Registry

New York
Date of Judgement
27 Jul 2020
Duty Judge
Judge Adda
Language of Judgment
English
French
Issuance Type
Judgment
Categories/Subcategories
Non-renewal
Arbitrary or improper motive
Applicable Law
Staff Regulations

- Regulation 4.5(c)

Staff Rules

- Rule 4.13(c)
- Rule 9.4

Related Judgments and Orders

2011-UNAT-115
2013-UNAT-311
2014-UNAT-433
2014-UNAT-450
2010-UNAT-084
2010-UNAT-081
2012-UNAT-201