

UNDT/2021/011, Coleman

UNAT Held or UNDT Pronouncements

The Tribunal has the power to interpret and identify the “contested administrative decision” at stake, even if the party or parties have failed to do so. The Applicant was placed on SLWOP following her expulsion from Pakistan, the host country, due to her failure to timely submit the required documents for the renewal of her accreditation card. The Applicant, as an international staff member, should have known that a valid visa and accreditation card were conditions sine qua non for her to stay in Pakistan and be able to perform her professional duties. Since these conditions were not met and the Applicant had to leave Pakistan at the explicit request of the Government, the Organization had no other solution but to consider alternative administrative arrangements, such as placing her on SLWFP or SLWOP, to address her situation. The Tribunal found that UNICEF was under no obligation to reassign the Applicant to another post because i) the circumstances of her departure from Pakistan were self-created and ii) she was not interested in continuing working with UNICEF beyond the expiration of her fixed-term appointment. It further considered that in the particular circumstances of this case, it was not in the interest of the Organization to keep the Applicant on pay status whilst not performing work for the Organization until the expiry of her fixed-term appointment on 30 September 2018. The Tribunal therefore concluded that the decision to place the Applicant on SLWOP was a lawful exercise of administrative discretion.

Decision Contested or Judgment/Order Appealed

The Applicant, a former staff member of UNICEF in Pakistan, contested the “final administrative decision to place [her] on Special Leave Without Pay” (“SLWOP”) effective 1 May 2018.

Legal Principle(s)

Venire contra factum proprium, which basically means that the Applicant cannot avail herself of a circumstance she has created.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Coleman

Entity

UNICEF

Case Number(s)

UNDT/GVA/2018/098

UNDT/GVA/2021/050

Tribunal

UNDT

Registry

Geneva

Date of Judgement

23 Feb 2021

Duty Judge

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Applicable Law

Staff Rules

Related Judgments and Orders

2012-UNAT-238

2010-UNAT-084