

UNDT/2021/021, Battista

UNAT Held or UNDT Pronouncements

The Applicant has not shown that the negative employment decision had any direct adverse consequences on her contract. The Applicant's argument that the decision was used by the Administration not to renew her temporary employment is without merit. She has not adduced any evidence to substantiate her claim. On the contrary the Respondent has shown that the temporary employment expired at the end of the maximum 364 days offered in the contract. The Applicant has failed to convince the Tribunal that the decision not to renew her temporary employment was a direct consequence of the decision from RVU certifying negative employment. The assertion that she was informed by her Chief that "but for the decision of the RVU, she would have continued in the job on one contract or another" is not supported by any evidence. Her reasoning that "the need for work in the same role continued" does not in itself guarantee renewal of her contract which expired due to effluxion of time pursuant to staff rule 4.12 (b) and sections 14.1 – 14.3 of ST/AI/2010/4/Rev.1. The Applicant has not shown that the above provisions applied specifically to her contract of employment and that but for the RVU decision entitled her to a temporary appointment of more than 364 days

Decision Contested or Judgment/Order Appealed

The Applicant is contesting the United Nations Global Service Centre ("UNGSC"), Reference Verification Unit's ("RVU") decision to close her reference verification case as "negative employment" because she did not meet the minimum verifiable 10 years work experience required for the position she had been selected for and because of this her temporary employment was not renewed at its expiry after 364 days

Legal Principle(s)

For an application to be receivable, the decision being challenged must be an “administrative decision”. One of the key characteristics of an administrative decision is that it must produce adverse legal consequences for a staff member’s employment contract or terms of appointment.; It is the duty of the Applicant to show the Tribunal that the impugned decision has direct adverse impact on her terms of appointment or contract of employment. In the case at hand, despite the negative employment decision the Applicant successfully concluded her term of appointment.; In the absence of any provable direct legal consequences stemming from the RVU decision, the Applicant has not demonstrated that she has a challengeable administrative decision for appeal under the Tribunals’ Statute.; UNDT;

Outcome

Dismissed as not receivable

Outcome Extra Text

The application is not receivable *ratione materiae* and is dismissed.

Full judgment

[Full judgment](#)

Applicants/Appellants

Battista

Entity

UNISFA

Case Number(s)

UNDT/NBI/2019/150

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

9 Mar 2021

Duty Judge

Judge Sikwese

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Temporary appointment

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

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

Staff Rules

- Rule 4.12(b)

UNDT Statute

UNAT Statute

- Article 2.1(a)