

UNDT/2021/027, Yamaguchi

UNAT Held or UNDT Pronouncements

The finding of non-receivability depends to an extent on one's perception as to the finality of words used in the decision email. There is a degree of uncertainty and the issues raised on the merits are of general interest. Therefore, applying the approach taken by the United Nations Appeals Tribunal ("UNAT") in Haq and Kane 2019-UNAT922 the issues related to the merits of the case will also be determined. The challenged decision was not part of a process with many steps. It was complete in and of itself and was clearly expressed as a termination decision with a specific date. The fact that the Applicant was encouraged to apply for vacant positions which could lead to the result that she would remain with the Organization did not render the decision conditional or a preparatory step. The Respondent has proven that based on the applicable guidelines embodied in both the former CF/AI/2010-003 and its replacement DHR/Procedure/2017/003, there is no requirement for the Respondent to treat the Applicant in the same way as a staff member governed by staff rule 9.6(c)(i) whose post has been abolished.

Decision Contested or Judgment/Order Appealed

Decision to terminate the Applicant's permanent appointment following Special Leave Without Pay.

Outcome

Dismissed as not receivable

Outcome Extra Text

Dismissed on receivability and merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Yamaguchi

Entity

UNICEF

Case Number(s)

UNDT/GVA/2019/030

Tribunal

UNDT

Registry

Geneva

Date of Judgement

23 Mar 2021

Duty Judge

Judge Honeywell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Permanent appointment

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Separation from service

Termination of appointment (see also, Termination of appointment)

Applicable Law

Staff Rules

- Rule 11.2(c)
- Rule 9.6