

UNDT/2021/142, Applicant

UNAT Held or UNDT Pronouncements

On the issue of reassignment, the Tribunal noted that the Applicant was reassigned to a position at the same grade and level commensurate with her skills and competencies. By Inter-Office-Memorandum dated 18 August 2020, the Under-Secretary-General for Operational Support (“USG/DOS”) reassigned the Applicant to another P-5 position, allowing her to maintain her grade, level and contract status. The Tribunal thus concluded that the Applicant had not met her burden to show that the contested decision was ill-motivated or in bad faith. Mere assertions and innuendo were insufficient. On the question of SLWFP, the Tribunal held that the decision to place the Applicant on SLWFP pending management evaluation was legal and reasonable. It was also in the interest of the Organization and the Applicant's safety. The Tribunal also held that the Applicant did not suffer any harm while on SLWFP. She received her full salary and all benefits without a break in service in accordance with staff rule 5.3 (g). The Applicant produced no evidence to support her claim that the contested decision was biased, prejudicial or malicious. Accordingly, the applications were rejected in all respects.

Decision Contested or Judgment/Order Appealed

The Applicant filed two applications that were later joined and determined together. (a) In the first application, which was registered as Case No. UNDT/NBI/2020/095, the Applicant contested the decision to reassign her from the post of Chief of Central Service (“Chief/CS”) with the United Nations Global Service Centre (“UNGSC”) in Brindisi to the Chief of Section, Logistics, Transportation and Movement Integrated Control Centre (“TMICC”), at the Regional Service Centre Entebbe (“RSCE”). (b) In the second application, which was registered as Case No. UNDT/NBI/2021/007, she contested the decision to place her on Special Leave With Full Pay (“SLWFP”) pending management evaluation of the decision to reassign her from UNGSC to RSCE.

Legal Principle(s)

(a) In relation to the first application, pursuant to staff regulation 1.2(c), staff members are subject to the authority of the Secretary-General and to assignment by him or her to any of the activities or offices of the United Nations. As per the jurisprudence, the reassignment of a staff member's functions comes within the broad discretion of the Organization to use its resources and personnel as it deems appropriate. It is also settled in the jurisprudence that the reassignment of a staff member to another position is proper where the new position is at the staff member's grade, the assigned functions correspond to the staff member's level, and the functions to be performed are commensurate with the staff member's competence and skills. (b) In relation to the second application, staff rule 5.3 (f) provides that in exceptional cases, the Secretary-General may, at his or her initiative, place a staff member on special leave with full or partial pay or without pay if he or she considers such leave to be in the interest of the Organization.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

UN

Case Number(s)

UNDT/NBI/2020/95

Tribunal
UNDT
Registry
Nairobi
Date of Judgement
30 Nov 2021
Duty Judge
Judge Hunter Jr.
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Reassignment or transfer
Applicable Law
Staff Regulations

- Regulation 1.2(c)

Staff Rules

- Rule 5.3(f)

UNDT RoP