

2012-UNAT-226, Al-Mulla

UNAT Held or UNDT Pronouncements

UNAT noted that heads of departments/offices retain the authority to transfer staff members within their departments or offices to vacant posts at the same level. UNAT held that the Appellant did not demonstrate that UNDT erred in finding that his reassignment was not contingent on the signature of the Host Country Agreement or that the failure to create an L-5 position breached the Host Country Agreement. UNAT held that the Appellant merely voiced his agreement with UNDT's conclusions and resubmitted the arguments made before UNDT; he did not meet the burden of demonstrating how UNDT erred in making the impugned findings. UNAT dismissed the appeal and upheld the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to no longer reassign him laterally to a UNODC Office in Abu Dhabi. UNDT rejected the Applicant's assertions that he was prevented from taking up the post because a project document had not been finalised and that UNODC's attempts violated the Host Country Agreement establishing the new Sub-Regional Office in Abu Dhabi, whereby the chief of office should be at the L-5 level. UNDT also found that the Secretary-General did not breach ST/AI/2006/3 in relation to the withdrawal of the Applicant's lateral reassignment. UNAT dismissed the application in its entirety.

Legal Principle(s)

Before UNAT, an appellant has to prove an error of law or fact and should not repeat arguments already considered and rejected by UNDT or the first-instance tribunal.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Al-Mulla

Entity

UNODC

Case Number(s)

2011-241

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Jun 2012

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Reassignment or transfer

Discretion

Applicable Law
Administrative Instructions

- ST/AI/2006/3

Related Judgments and Orders
UNDT/2011/105
2011-UNAT-105
2011-UNAT-123