

2013-UNAT-377, Balinge

UNAT Held or UNDT Pronouncements

UNAT held that UNDT did not err on questions of fact by ignoring or failing to examine what the Appellant considered to be evidence, which constituted mere allegations and unsubstantiated argumentation on his part. UNAT held that the Appellant did not support his submission by any grounds which would bring the issue within the remit of UNAT. Noting that the Appellant relied upon the statements and observations which he had brought before UNDT, UNAT noted that a litigant's past allegations and arguments cannot be considered evidence per se. UNAT held that it was not the task of UNDT (or UNAT) to step into the Administration's role and repeat the Retention Panel procedure, or to assess the staff members' possibilities during the downsizing exercises or post abolition. UNAT held that no procedural flaw by the Retention Panel was established by the Appellant before UNDT or UNAT and no irregularity could be inferred from an undated document, which supposedly listed his post as "non-abolished". UNAT considered that the issue of the non-initiation of a preliminary investigation was adequately considered by UNDT as not being part of the Appellant's management evaluation request. UNAT noted that the failure to undertake that kind of investigation does not constitute sufficient ground to make the impugned decision illegal or to render incorrect the first instance court's conclusions. UNAT held that the Appellant had not shown any real error of fact or law in the impugned judgment which would warrant its reversal. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

UNDT judgment: The Applicant contested the decision not to renew his fixed-term appointment as a result of a downsizing process and the abolition of his post. UNDT rejected the application, finding that the application was based on unsubstantiated allegations and that the Applicant had failed to demonstrate the unlawfulness of the contested administrative decision.

Legal Principle(s)

A litigant's past allegations and arguments cannot be considered evidence per se.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Balinge

Entity

ICTR

Case Number(s)

2013-429

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2013

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Evidence

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Abolition of position

Applicable Law

UNAT Statute

- Article 2.1

Related Judgments and Orders

UNDT/2012/180

2010-UNAT-051

2011-UNAT-141