

2014-UNAT-485, Carrabregu

UNAT Held or UNDT Pronouncements

UNAT considered the Secretary-General's appeal as to whether Ms Carrabregu was eligible to be considered for a permanent appointment. UNAT noted that the factual sequence clearly showed that Ms Carrabregu freely and willingly resigned from her service with UNDP to take up an appointment with a different entity (UNV), thereby causing a break in service. UNAT held that this break in service should have led UNDT to uphold the administrative decision that Ms Carrabregu was not eligible for conversion to a permanent appointment. UNAT further noted that Ms Carrabregu's service to UNV could not be considered a reinstatement, as the terms of it reflected that it consisted of a completely new appointment, to the extent that Ms Carrabregu's annual leave from her prior appointment was not carried over to her appointment with UNV, which was another indicator of a break in service that she expressly acknowledged. UNAT allowed the appeal and vacated UNDT's judgment. UNAT also affirmed the administrative decision regarding Ms Carrabregu's ineligibility for conversion to a permanent appointment.

Decision Contested or Judgment/Order Appealed

Ms Carrabregu contested the decision to deem her ineligible for consideration for a permanent appointment. UNDT held that UNDP erred in allowing Ms Carrabregu to be placed on special leave without pay so that she could take up a 300-series ALD appointment, which resulted in UNDP being unable to take her September 2009 resignation into account for the purpose of determining her eligibility for a permanent appointment. UNDT concluded that Ms Carrabregu must be considered to have met the requirement of continuous service and therefore ordered the rescission of the contested decision.

Legal Principle(s)

A break in service of any duration prior to the date on which the staff member reached the five years of qualifying service will interrupt the continuity of service. Breaks in service after the date on which the staff member reached five years of qualifying service will not automatically disqualify staff members from being considered for a permanent appointment; their situation will be reviewed taking into account the specific facts of each case.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Carrabregu

Entity

UNDP

Case Number(s)

2014-559

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2014

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Permanent appointment

Staff selection (non-selection/non-promotion)

Eligibility

Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNDP policy on consideration for conversion to a permanent appointment of UNDP staff members eligible to be considered as at 30 June 2009

Related Judgments and Orders

UNDT/2013/143