

2015-UNAT-563, Reid

UNAT Held or UNDT Pronouncements

UNAT noted that the Appellant was not bringing a claim that he did not receive the benefits and entitlements which pertained to a temporary appointment, but rather his allegation was that the General Assembly resolutions which gave rise to the rules and administrative issuances regulating his employment did not adhere to the principle of equal pay for equal work and were contrary to a myriad of international human rights instruments to which the Organisation was bound to adhere. UNAT held that the policy change for staff members on temporary contracts was binding on the Secretary-General, who was mandated to implement the change by the promulgation of the necessary staff rules and administrative issuances. UNAT held that UNDT did not have the competence to examine administrative and budgetary decisions taken by the General Assembly, including on the entitlements to be accorded to different categories of staff members. UNAT held that UNDT did not err in law or fail to exercise its jurisdiction in deeming the Appellant's challenge to the General Assembly resolutions not receivable. On the Appellant's claim that UNDT erred by not finding that his temporary appointment was unlawful because the nature of a temporary appointment was not respected, UNAT held that the Appellant's complaint related to the Administration's application of the policy and, as such, fell within the jurisdiction of the UNDT. UNAT held that the complaint made by the Appellant required factual findings in order to ascertain whether the claim was meritorious and it would remand this discrete issue back to UNDT. On the Appellant's claim that UNDT committed an error of procedure in failing to address whether his appointment should have been converted to a fixed-term contract, UNAT held that there was no evidence that UNDT considered this complaint and thus erred in failing to do so and that it would remand this discrete issue back to UNDT. UNAT affirmed UNDT's rejection of the Appellant's claim that the rules governing entitlements for temporary staff member were unlawful and remanded the following issues to UNDT for consideration: (i) whether the Appellant's temporary appointment was unlawful because ST/AI/2010/Rev. 1 was not properly applied; and (ii) whether his temporary appointment should have been converted to a fixed-term

appointment.

Decision Contested or Judgment/Order Appealed

The Applicant, holding a temporary appointment, submitted four separate applications contesting the Administration's decision that he was not entitled to the accrual of annual leave at the rate of two and a half days per month and the same relocation and assignment grants as staff members on fixed-term appointments. UNDT found the applications were not receivable *ratione materiae*.

Legal Principle(s)

Administrative decisions are characterised by the fact that they are taken by the Administration, they are unilateral and of individual application, and they carry direct legal consequences.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Reid

Entity

UNSMIL

Case Number(s)

2014-652

2014-653

2014-654

2014-655

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Jul 2015

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

Appointment (type)

Temporary appointment

Benefits and entitlements-45

Annual leave

Relocation grant

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

- ST/AI/2010/4/Rev.1

Information Circulars

- ST/IC/2006/60

Staff Rules

- Rule 7.1
- Rule 7.14
- Rule 7.15

UNAT Statute

- Article 2.1
- Article 2.1(e)
- Article 2.4(b)

Related Judgments and Orders

UNDT/2014/095

UNDT/2014/096

UNDT/2014/097

UNDT/2014/098

2014-UNAT-405