

2016-UNAT-686, He

UNAT Held or UNDT Pronouncements

UNAT considered the appeal and found that the manner in which UNDT went about investigating the disputed facts, in this case, was insufficient. UNAT held that because there had not been adequate fact-finding, there was insufficient evidence before it to decide the appeal. UNAT accordingly held that the need for more evidence, and a factual determination based upon it, required the matter to be remanded to UNDT for fresh consideration, pursuant to Article 2(3) of the UNAT Statute. UNAT upheld the appeal, vacated UNDT's judgment, and remanded the matter to UNDT.

Decision Contested or Judgment/Order Appealed

The Applicant contested the administrative decision not to renew her fixed-term appointment. UNDT found that it was reasonable for the Administration to conclude that there would be a decrease in work assignable to the Applicant, and further held the Applicant's allegation of a promise of renewal to be unfounded. UNDT dismissed her application.

Legal Principle(s)

An administrative decision not to renew a fixed-term appointment can be challenged as being unreasonable on the grounds that the Administration has not acted fairly, justly, or transparently, or was motivated by bias, prejudice, or improper motive against the staff member. UNDT may act inquisitorially to ensure that the evidentiary questions presented by the pleadings are properly examined in any hearing held to decide an application.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

He

Entity

DCM

Case Number(s)

2016-908

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Oct 2016

President Judge

Judge Murphy

Language of Judgment

English

Chinese

Issuance Type

Judgment

Categories/Subcategories

Evidence

Investigation

Applicable Law

UNAT Statute

- Article 2.3

UNDT RoP

- Article 16
- Article 17
- Article 18

UNDT Statute

- Article 7.2(e)
- Article 7.2(i)
- Article 9.1
- Article 9.2

Related Judgments and Orders

UNDT/2016/007

2015-UNAT-500

2010-UNAT-021

2011-UNAT-130