

2018-UNAT-875, Kellie

UNAT Held or UNDT Pronouncements

UNAT considered the Appellant's appeal. UNAT considered the criteria set out in Article 2 of the UNAT Statute to determine whether any alleged errors of law and fact resulted in a manifestly unreasonable decision. UNAT found that there was no evidence that the decision to abolish the post encumbered by the Appellant was unlawful. UNAT also found that UNRWA DT's decision was correctly based on the applicable law and available evidence. To that end, UNAT held that the Appellant failed to establish that the UNRWA DT committed any error, whether of law, fact, or procedure. UNAT further noted that the Appellant failed to establish that UNRWA DT erred in concluding that he had not produced any evidence amounting to a promise of renewal for the period he had expected. UNAT dismissed the appeal in its entirety and affirmed UNRWA DT's judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to extend his appointment. UNRWA DT found that the Applicant had failed to establish that the decision to abolish his post was discriminatory or motivated by improper reasons. UNRWA DT acknowledged that the decision of 22 August 2016 not to renew the Applicant's appointment beyond 13 September 2016 was tainted by a procedural irregularity, but the decision of 9 November 2016 was not tainted by any irregularity, because the ACHR had been consulted and had recommended the non-extension of the Applicant's contract. UNRWA DT dismissed the Applicant's application.

Legal Principle(s)

The Administration has a duty to correct its own errors. The interests of administrative justice require that the Agency should retain the discretion to correct erroneous decisions. To deny it such an authority on a quasi-estoppel basis would be

contrary to both the interests of staff members and the Organisation. How the discretion to correct or reverse a prevailing practice or a specific decision should be exercised will necessarily depend on the circumstances of any given case. For a first-instance decision to be vacated or overturned, an appellant must establish that the first instance tribunal, in rendering its judgment, erred in a manner resulting in a manifestly unreasonable decision, and the appellant must persuade UNAT that the contested decision fulfills the objective criteria of its competence. Fixed-term appointments or appointments of limited duration carry no expectation of renewal or conversion to another type of appointment. Even the renewal of the appointment of a staff member on successive contracts does not, in and of itself, give grounds for an expectancy of renewal, unless the Administration has made an express promise that gives the staff member an expectancy that his or her appointment will be extended. For a staff member's claim of legitimate expectation of a renewal of appointment to be sustained, it must not be based on mere verbal assertion, but on a firm commitment to renewal revealed by the circumstances of the case.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Kellie

Entity

UNRWA

Case Number(s)

2018-1168

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Oct 2018

President Judge

Judge Halfeld

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

No expectancy of renewal

Separation from service

Expiration of appointment (see also, Non-renewal)

Applicable Law

UNAT Statute

- Article 2