

2019-UNAT-903, Afeworki

UNAT Held or UNDT Pronouncements

UNAT held that the Appellant did not produce sufficient evidence to support her allegations of bias, discrimination, and/or improper motives. UNAT held that it had examined all of the grounds raised in the appeal and held that there was no evidence that the Administration did not act fairly, justly, and transparently throughout the restructuring process. UNAT held that the Appellant failed to establish any error in law or fact to support her case for a reversal of the UNDT judgment. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew her fixed-term appointment and the decision not to grant her a continuing appointment. Following an application to UNDT and an appeal to UNAT, the matter was remanded to UNDT for consideration on the merits. UNDT found that the application was not receivable as the Applicant had failed to request management evaluation and was not in active service for the required period. UNDT found that the non-renewal was based on a bona fide restructuring, the comparative review was not due to any discrimination, all staff affected by the retrenchment had been similarly treated, the Secretary-General provided an adequate explanation to rebut any inference of discrimination or favoritism towards four staff members who were reassigned, and the Applicant failed to produce any evidence in support of her allegations of discrimination. UNDT dismissed the application.

Legal Principle(s)

The Administration has broad discretion to reorganise its operations and department to adapt to economic vagaries and challenges; in doing so, it has a duty to act fairly, justly, and transparently throughout the restructuring process.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Afeworki

Entity

RSCE

Case Number(s)

2018-1195

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Mar 2019

President Judge

Judge Felix

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Termination

Appointment (type)

Continuing appointment

Non-renewal

Reason(s)

Separation from service

Expiration of appointment (see also, Non-renewal)

Applicable Law

Administrative Instructions

- ST/AI/2012/3

Staff Rules

- Rule 9.6(e)

Related Judgments and Orders

UNDT/2018/068