

# 2019-UNAT-960, Abdeljalil

## UNAT Held or UNDT Pronouncements

UNAT held that the Appellant's case was fully and fairly considered by UNRWA DT. UNAT found no error of law in UNRWA DT's decision. UNAT held that UNRWA DT properly reviewed the contested decision in accordance with the applicable law. UNAT held that the non-extension of the limited duration contract was a result of the elimination of her post due to a lack of funds, which constituted a valid reason proffered by the Administration for not renewing her appointment. UNAT held that, by applying objective criteria in the reduction of the staffing levels, UNRWA adhered to the principles of equality, objectivity, and transparency in dealing with this issue, thus comporting with UNAT's jurisprudence on the exercise of discretion in administrative matters. UNAT held that the Appellant failed to establish that the decision not to renew her contract discriminated against her or was tainted by improper motives, unfairness, or lack of transparency. UNAT held that under the relevant legal framework, maternity leave of a staff member serving on a limited-duration contract shall not exceed the end of her current limited duration contract and that, contrary to the Appellant's contention, the grant of maternity leave could not and did not imply the extension of her limited-duration contract beyond that time limit. UNAT held that, although a staff member may challenge the non-renewal of an appointment on the ground that the Administration made an express promise that gave rise to a legitimate expectation of renewal, there is no legal authority for the proposition that an implied promised renewal stems from the past renewals of an appointment. On the Appellant's claim that the UNRWA DT made an error of procedure by not calling the witnesses she had identified and recalling that UNAT will only intervene in clear cases of due process of law affecting a party's right to produce evidence, UNAT did not accept the Appellant had met this threshold. Recalling that a party not only has to assert and show UNRWA DT committed an error in procedure, but also demonstrate that this error affected the decision on the case, UNAT held that even if there was a procedural error, the Appellant would have to show that this error had had an impact on the decision of the case, which she did not do. UNAT held that in the absence of evidence on record of an express promise

in writing or at least a firm commitment to renew her contract, it was not unreasonable on the part of UNRWA DT not to call witnesses. UNAT held that the Appellant's due process rights were not violated. UNAT held that there was no error of fact resulting in a manifestly unreasonable decision. UNAT held that there was no justification for the award of compensation. On the Commissioner-General's request for an award of costs for the manifest abuse of the appeals proceeding, UNAT held that the filing of the present appeal was not an abuse of process and hence there was no basis for making a costs award. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the non-renewal of her limited-duration contract for lack of funding. UNRWA DT dismissed the application on the grounds that the Applicant's non-renewal was lawful in that it resulted from a lack of funding and the Applicant had no expectancy of renewal.

## Legal Principle(s)

An international organization necessarily has the power to restructure, including the abolition of posts, the creation of new posts, and the redeployment of staff. UNAT will not interfere with a genuine organizational restructuring even though it may have resulted in the loss of employment of staff. In a restructuring exercise, the Administration has the duty to act fairly, justly, and transparently in dealing with staff members. The Administration has an obligation to state the reasons for an administrative decision not to renew an appointment to assure the Tribunals' ability to judicially review the validity of the decision. 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 written promise. UNAT will not interfere lightly with the broad discretion conferred on the first instance tribunal in the management of its cases.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Abdeljalil

## Entity

UNRWA

## Case Number(s)

2019-1259

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

25 Oct 2019

## President Judge

Judge Raikos

## Language of Judgment

Arabic

English

## Issuance Type

Judgment

## Categories/Subcategories

Appointment (type)

Appointment of Limited Duration

TEST -Rename- Benefits and entitlements-45

Maternity/paternity leave

Due process

Non-renewal

No expectancy of renewal

Reason(s)

## Applicable Law

UNAT Statute

- Article 2.1(d)
- Article 2.1(e)
- Article 9.2

UNRWA Area Staff Rules

- Rule 106.3
- Rule 106.3.1