

2020-UNAT-1042, Nugroho

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT was correct in its finding that the decision to terminate the Appellant's continuing appointment was unlawful as its purported basis (insufficient funds) did not exist. UNAT held that it was not necessary for it to deal with the issue of whether UNDT erred in its finding that the Administration failed to comply with its obligation of retention. UNAT held that the abolition of the post due to financial reasons did not subsist for judicial review. On the Secretary-General's argument that UNDT had erred in finding Mr Nugroho was given adequate notice of his termination, UNAT held that this was only a corroborating or subsidiary argument used by UNDT which had little or no relevance for determination of the case. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to terminate his continuing appointment. UNDT found that the contested decision was not supported by facts and was unjustified and unlawful. UNDT found that the Secretary-General had provided no evidence in support of the claims that funds would not be sufficient to cover both meeting and staff costs at the time, or that Member States had decided to prioritize meetings over staff costs. UNDT also found the termination decision to be unlawful for failure to comply with the Staff Rules which required the Organisation to make all reasonable efforts to retain the Applicant's service as a holder of a continuing appointment. UNDT ordered rescission of the termination decision or two years' net base salary in lieu of rescission.

Legal Principle(s)

The duty to give reasons for a decision is essential for the Tribunals to exercise their judicial review of administrative decisions, assessing whether they were arbitrary, capricious, or unlawful. When a justification is given by the Administration for the exercise of its discretion, it must be supported by the facts.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Nugroho

Entity

UNODA

Case Number(s)

2020-1388

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2020

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Termination

Appointment (type)

Continuing appointment

Non-renewal

Reason(s)

Termination (of appointment)

Abolition of position

Applicable Law

Staff Rules

- Rule 13.1(d)
- Rule 9.6(c)(i)

Related Judgments and Orders

UNDT/2020/032

2020-UNAT-1021

2012-UNAT-201

2011-UNAT-115