

2020-UNAT-989, Lamb

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. The Secretary-General raised the argument, inter alia, that Ms Lamb's retroactive appointment was disrupted when she resigned and separated and, therefore, she had no contractual relationship with the Organisation obliging it to place her preferentially in vacant posts as someone holding a permanent appointment. UNAT held that UNDT concluded correctly that (1) Ms Lamb's employment ended in mid-2013 by her own initiative and (2) there was nothing in the documentation relating to Ms Lamb's resignation to support her assertion that it was precipitated by uncertainty about her longer-term prospects with UNAKRT. UNAT held that although, in 2017, Ms Lamb accepted permanent employment status, which included a deemed retroactivity to mid-2009, her status as a permanent member of staff was ended by her resignation in 2013. UNAT held that Ms Lamb was not entitled to any benefits except those to which a staff member on a permanent appointment would have been entitled on resigning with notice. UNAT held that the UNDT was incorrect in deciding that the 2017 agreement created a new contractual relationship that survived Ms Lamb's resignation. UNAT held that the UNDT erred in law. UNAT upheld the appeal of the Secretary-General and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Following litigation before UNDT and UNAT, the Applicant received a retroactively effective offer of conversion of her fixed-term appointment to a permanent appointment after she had already separated from the Organisation. Upon acceptance of this offer, the Administration informed her that she could only obtain a position within UNAKRT by applying for UNAKRT posts and being appointed after a process of competitive appointment. The Applicant challenged this decision as a failure of the Organisation to provide her with an effective remedy. UNDT granted her application and ordered UNAKRT to offer her a suitable post without a competitive process and in lieu compensation.

Legal Principle(s)

Permanent employment status will not survive separation from service by resignation.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Lamb

Entity

UNAKRT

Case Number(s)

2019-1293

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Mar 2020

President Judge

Judge Colgan
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Appointment (type)
Permanent appointment
Applicable Law
Secretary-General's bulletins

- ST/SGB/2009/10

Related Judgments and Orders
UNDT/2019/092
2017-UNAT-730
2018-UNAT-847