

2021-UNAT-1173, Anchana Patkar

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by Ms. Patkar. UNAT dismissed the Appellant's argument that the UNDT erred in fact, law or failed to exercise its jurisdiction in concluding that the Appellant had not been granted sick leave that was then terminated or retracted. The MSD email to the Appellant concerned an evaluation of her fitness to work based on the medical report she had submitted and there was no evidence that the UNOPS Administration had approved such leave. UNAT further held that that the Appellant's entitlement to sick leave did not outlive the expiration of the fixed-term appointment as there was nothing in the Staff Rules or subsidiary framework that supported this argument. UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

In Judgment No. UNDT/2020/141, the UNDT dismissed the application of the Appellant, the Head of Policy (P-5) for the WSSCC, an organization hosted by UNOPS in Geneva, contesting the decision to terminate or retract her sick leave resulting in her separation while on sick leave. The UNDT concluded that there was no sick leave to "terminate or retract" and UNOPS was under no obligation to extend a fixed-term appointment solely for the purpose of allowing a staff member to utilize his or her sick leave entitlement.

Legal Principle(s)

Fixed-term appointments do not carry any expectancy, legal or otherwise, of renewal or conversion, irrespective of the length of service, except as provided under staff rule 4.14 (b). A temporary or fixed-term appointment shall expire automatically and without prior notice on the expiration date specified in the letter of appointment. Sick leave entitlement is a "benefit" that ceases on the date of the expiration of the fixed term appointment as specified in the letter of appointment. Under the UNOPS legal framework, the entitlement to sick leave does not outlive the expiration of a fixed-term appointment. Under the UNOPS legal framework, while the MSD "certifies" the leave and performs a medical check, the supervisor is responsible for the "approval" of the leave.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Anchana Patkar

Entity

UNOPS

Case Number(s)

2020-1467

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Oct 2021

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Sick leave

Separation from service

Expiration of appointment (see also, Non-renewal)

Applicable Law

Administrative Instructions

- ST/AI/1999/16

Laws of other entities (rules, regulations etc.)

- UNOPS Operational Directive OD.PCG.2017.01
- UNOPS Executive Office Directive Ref. EOD.ED.2019.02

Secretary-General's bulletins

- ST/SGB/2009/1
- ST/SGB/2009/4

Staff Rules

- Rule 4.13(c)
- Rule 6.2
- Rule 9.11
- Rule 9.4

Related Judgments and Orders

2020-UNAT-1068