

2023-UNAT-1355, Ramesh Balakrishnan Menon

UNAT Held or UNDT Pronouncements

The UNAT denied the Appellant's request for an oral hearing. It held that, pursuant to Article 18 of the Appeals Tribunal Rules of Procedure, an oral hearing would not be of any assistance in this case as the issue for consideration was straightforward and not complex.

The UNAT found that the Appellant's attempt to broaden the scope of the issue for consideration was untenable. The UNAT concluded that it was clearly agreed at the case management discussion (CMD) that the issue for determination was the desired reclassification of Mr. Menon's post from the P-4 to the P-5 level and that the parties were bound by their pleadings and pre-trial agreements.

The UNAT held that the Appellant failed to demonstrate that the UNDT erred in finding that his application was not receivable *ratione materiae*. It found that the Appellant had no right, contractually or otherwise, to insist on the benefits of a P-5 post and that his contention that his terms of appointment and contract of employment were directly and adversely affected by the decision not to reclassify his post was not sustainable. It further found that his terms of appointment and his contract of employment did not provide him with a right to determine the organizational structure and staffing of the unit in which he worked, nor do they oblige the Administration to reclassify his post. Furthermore, the UNAT concluded that even if his post was later reclassified, it would not be Mr. Menon's for the asking; he would still have to compete for the promotion.

Accordingly, the UNAT held that decision to deny the Appellant's request for a reclassification of his P-4 post to the P-5 level did not have a direct adverse effect on his terms of appointment or contract of employment and consequently did not constitute an administrative decision in respect of which the UNDT had jurisdiction.

The UNAT dismissed the appeal and affirmed Judgment No. UNDT/2022/045.

Decision Contested or Judgment/Order Appealed

The Appellant, Chief of the Aviation Safety Unit, in the Office of the Director of Mission Support with MINUSMA, contested the decision of the Administration to deny his request for a reclassification of his P-4 post to the P-5 level. In its Judgment No. UNDT/2022/045, the UNDT dismissed his application as not receivable *ratione materiae* due to the fact that the contested decision was not an appealable administrative decision.

Legal Principle(s)

The parties are bound by their pleadings and pre-trial agreements.

Pursuant to Article 2(1)(a) of the Dispute Tribunal Statute, the UNDT shall be competent to hear and pass judgment on an application filed to appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment of a staff member. The key characteristic of an administrative decision is its capacity to produce direct legal consequences adversely and directly affecting a staff member's terms of appointment or contract of employment.

While Section 1.3 of Administrative Instruction ST/AI/1998/9 (System for the classification of posts) permits a staff member to seek a classification review, staff members do not have a contractual right to a reclassification of the post itself. Indeed, staff members' terms of appointment and contract of employment do not provide them with a right to determine the organizational structure and staffing of the unit in which they work, nor do they

oblige the Administration to reclassify posts that they may encumber.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ramesh Balakrishnan Menon

Entity

MINUSMA

Case Number(s)

2022-1709

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Jul 2023

President Judge

Judge Murphy

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Definition

Subject matter (ratione materiae)

Case management

Oral hearings

Administrative decision

Jurisdiction / receivability (UNAT)

Procedure (first instance and UNAT)

Applicable Law

Administrative Instructions

- ST/AI/1998/9

UNDT RoP

- Article 18

Related Judgments and Orders

UNDT/2022/045

2019-UNAT-917

2019-UNAT-970

2018-UNAT-840