

UNDT/2023/042, Zhang

UNAT Held or UNDT Pronouncements

The Tribunal is seized of an application where the staff member contests the termination of her permanent appointment and separation from service due to unsatisfactory performance. The evidence shows that the Applicant's performance was rated as either "partially meets performance expectations" or "does not meet performance expectations" since 2015, except for one cycle in which she "fully met" expectations. The Applicant only rebutted one of these performance evaluations, which, however, was upheld by the rebuttal panel. Accordingly, all of these performances evaluations are binding on the Applicant, the Organization, and this Tribunal. In this context, the Tribunal took note of the Applicant's allegations that she was not able to rebut her performance evaluations due to health issues arising from alleged harassment, but could not find any evidence to this alleged fact. Furthermore, the Tribunal notes that the decision to terminate the Applicant's appointment due to unsatisfactory performance was preceded by a recommendation that was reviewed by a Central Review body pursuant to staff rule 13.1(b)(i). Also, the case record also shows that all the Applicant's performance evaluation documents of the past six cycles contain detailed information on the implementation of Performance Improvement Plans ("PIPs"), and on the discussions held with the Applicant in this regard. The Applicant's vague allegations that the PIPs were not in fact implemented, discussed, or mutually agreed on, are not sufficient evidence for this Tribunal to determine any type of illegality linked to the performance evaluations. In relation to her allegations of bias and improper motives, the Applicant has neither demonstrated that the decision to terminate her permanent appointment is connected to any ulterior motive against her nor has she alleged or detailed any specific facts in this regard. Therefore, the Tribunal finds no evidence of unlawfulness in the contested decision.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision to terminate her permanent appointment for unsatisfactory performance and separate her from service.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Zhang

Entity

UNOG

Case Number(s)

UNDT/GVA/2021/066

Tribunal

UNDT

Registry

Geneva

Date of Judgement

30 May 2023

Duty Judge

Judge Tibulya

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-disciplinary

Unsatisfactory service

Burden of proof

Termination (of appointment)

Applicable Law

Staff Regulations

- Regulation 9.3
- 13.1(b)(i)

Staff Rules

- Rule 9.6(c)(ii)

UN Charter

- Article 101.3

Secretary-General's bulletins

- ST/SGB/2011/7

Administrative Instructions

- ST/AI/2010/5
- ST/AI/222

Related Judgments and Orders

2010-UNAT-081

2012-UNAT-201

2017-UNAT-757