

2022-UNAT-1287, Yussuf Ahmed Hassan

UNAT Held or UNDT Pronouncements

Mr. Hassan appealed the UNDT judgment.

The UNAT held that the Appellant failed to demonstrate that the UNDT erred in finding that his application was not receivable *ratione personae*. UNAT concluded that at the time of the contested non-selection decision, the Appellant had been separated from service for more than a year and was no longer a staff member. He was an external candidate with no standing to challenge the decision not to select him for the new position of Resettlement Associate, as the decision was not affecting his former terms of appointment. Moreover, there was no offer of appointment which could possibly give rise to an argument of a “quasi-contract” so as to confer jurisdiction over the Appellant’s claims. Finally, UNAT held that UNDT made no error by deciding to proceed by way of summary judgment.

Decision Contested or Judgment/Order Appealed

Mr. Hassan, a former staff member of the United Nations High Commissioner for Refugees (UNHCR), contested his non-selection for a new position of Resettlement Associate in UNHCR to which he applied after his separation from service. In a summary judgment decision No. UNDT/2021/114, the UNDT dismissed his application as not receivable *ratione personae*.

Legal Principle(s)

Article 3(1) of the UNDT Statute limits the jurisdiction *ratione personae* of the UNDT. The UNDT shall be competent to hear and pass judgment on applications of staff

members, former staff members or representatives of incapacitated or deceased staff members of the Organization. However, under established jurisprudence, before a person may be regarded as a former staff member in terms of Article 3 of the UNDT Statute, there must be a sufficient nexus between the former employment and the contested decision. The sufficient nexus exists when the challenged decision has bearing on an applicant's former status as a staff member, specifically when it affects his or her prior terms of appointment.

The limits on personal jurisdiction mean that ordinarily the UNDT will not have the authority to receive applications by job applicants alleging illegality, unfairness or discrimination in the recruitment process.

Summary judgment may be issued by the UNDT when there is no dispute concerning the facts and the moving party is entitled to judgment as a matter of law. It can be issued either in response to a party's request or on the Dispute Tribunal's own initiative.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Yussuf Ahmed Hassan

Entity

UNHCR

Case Number(s)

2021-1636

Tribunal

UNAT

Registry

New York

Date of Judgement

15 Dec 2022

President Judge

Judge Murphy

Judge Colgan

Judge Halfeld

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Personal (ratione personae)

Oral hearings

Jurisdiction / receivability (UNDT or first instance)

Procedure (first instance and UNAT)

Applicable Law

UNAT RoP

- Article 18.1

UNAT Statute

- Article 2.1
- Article 8.3

UNDT RoP

- Article 9

UNDT Statute

- Article 3.1
- Article 3.1(b)

Related Judgments and Orders

2017-UNAT-727

2011-UNAT-171

2011-UNAT-154

2018-UNAT-810