

UNDT/2023/108, Awad

UNAT Held or UNDT Pronouncements

There is sufficient documentary evidence on record showing that the Applicant was properly made aware of the performance shortcomings he needed to address and improve. He was placed on a PIP that was structured and designed specifically for him, and he was provided with adequate support and guidance to improve.

Having identified, documented, and addressed the Applicant's performance shortcomings through the applicable rules, the decision not to renew his FTA based on unsatisfactory service, taken after the Applicant was found not to have improved his performance despite being given the necessary support, was in full compliance with the applicable rules.

In respect to the Applicant's allegation that the contested decision was tainted by bias or improper motives, the Tribunal recalls that the burden of proving improper motives, such as abuse of authority, discrimination, retaliation or harassment, rests with the person making the allegation.

In the case at hand, the Applicant's assertions can only amount, at best, to speculation. There is no evidence on record to support that he was given differential treatment, treated unfairly, or that the decision not to renew his FTA was improperly motivated.

On the contrary, the evidence points to the Applicant being given every opportunity to improve his performance, and to both his supervisors and HR personnel being invested in helping him improve.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision not to renew his fixed term appointment ("FTA") beyond 31 January 2022 due to unsatisfactory service.

Legal Principle(s)

It is an established principle of law that an FTA carries no expectancy of renewal, legal or otherwise, and that a non-renewal decision can be challenged on the grounds of legitimate expectancy of renewal, relevant procedural irregularity, or that the decision was arbitrary or motivated by bias, prejudice or improper motive.

In cases of unsatisfactory performance, the Administration must provide sufficient proof of said poor performance on the basis of a procedurally fair assessment or appraisal establishing the staff member's shortcomings and the reasons for them.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Awad

Entity

UNICEF

Case Number(s)

UNDT/GVA/2022/027

Tribunal

UNDT

Registry

Geneva

Date of Judgement

28 Sep 2023

Duty Judge

Judge Sun

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Performance management

Performance management

Applicable Law

Staff Rules

Staff Regulations

UNICEF Administrative Instructions

- CF/AI/2011-001/Amend.2

Related Judgments and Orders

2019-UNAT-967

2011-UNAT-115

2012-UNAT-201

2019-UNAT-902

2018-UNAT-825

2011-UNAT-153

2011-UNAT-132

2018-UNAT-849
2017-UNAT-757
2010-UNAT-084
2015-UNAT-500
2013-UNAT-298
2019-UNAT-900
2015-UNAT-506
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2015-UNAT-503