

2023-UNAT-1407, Lars Ronved

UNAT Held or UNDT Pronouncements

Mr. Ronved appealed.

The UNAT dismissed the appeal and affirmed the UNDT Judgment.

The UNAT held that the UNDT erred in finding the application not receivable with respect to the refusal of a temporary promotion to the P-4 level.? The contested decision before the UNDT was the decision to extend the SPA, which the Appellant timely challenged before the MEU and the UNDT.? The extension of the SPA and the denial to grant a promotion were two sides of the same decision, with the same time limits for management evaluation.? Therefore, the request for management evaluation of both decisions was receivable.

The UNAT, however, held that the UNDT did not err in finding that not granting the Appellant a temporary promotion to the P-4 level was lawful given the legal framework applicable to the administration of temporary appointments and the legal framework governing special post allowance for field mission staff.? Moreover, the Appellant accepted the payment and should have known that as a staff member they could not be promoted to a higher grade and receive SPA for serving at that grade at the same time.

Finally, the UNAT found that the UNDT correctly held that the decision not to find the Appellant eligible for the P-5 position was lawful. Pursuant to the Administrative Instruction on the staff selection system, the Appellant was not eligible to apply for positions more than one level higher than their personal grade. When they applied they held a P-3 grade and were thus not eligible to apply for the P-5 position.?

Decision Contested or Judgment/Order Appealed

Mr. Ronved, a P-3 staff member with UNSOS, contested before the UNDT the decisions to (i) grant them a special post allowance (SPA) instead of a temporary promotion to P-4; and (ii) find them ineligible to apply for a P-5 job opening (JO).

The UNDT found the application not receivable *ratione materiae* to the extent that the question of a temporary promotion had never been raised, and as such, the application was not receivable for lack of an administrative decision. The UNDT found that alternatively, accepting *arguendo* that the extension of the SPA was an implied refusal of a temporary promotion, the application was not receivable for lack of a timely request for management evaluation. Also, while the extension of the SPA was a new administrative decision, which, in principle, did activate afresh the deadlines to appeal it, Mr. Ronved would be lacking legitimacy to complain against it, since it accords with their presumed interest.

As to the fact that Mr. Ronved had not been granted a temporary promotion, the UNDT noted that they had become aware of this decision at the latest in March 2020, when they had been selected for the position and not issued a new appointment. The 2022 retroactive extension of the SPA was only a corollary to the extension of the assignment.

Turning to Mr. Ronved's eligibility for the P-5 JO, the UNDT found the application receivable, but held that they were not eligible considering that their grade was P-3 when applying for the P-5 position.

The UNDT therefore dismissed the application.

Legal Principle(s)

The time limit for requesting management evaluation against an administrative decision starts once a staff member has been notified of the decision in writing and in clear and unequivocal terms.

Article 2(1)(a) of the UNDT Statute gives the UNDT jurisdiction to hear and pass judgment on an application to appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms “contract” and “terms of appointment” include all pertinent Regulations and Rules and all relevant administrative issuances in force at the time of alleged non-compliance. When determining what is an “administrative decision”, the key characteristic is that the decision must produce direct legal consequences affecting a staff member’s terms and conditions of appointment.

When interpreting the meaning of the Staff Rules, the Tribunal must respect the context of the provision as a whole.

Pursuant to Staff Rule 3.10(b), staff members shall normally be expected to assume temporarily the duties and responsibilities of higher-level posts without extra compensation and only in exceptional cases, they could be granted a non-pensionable special post allowance.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Lars Ronved

Entity

UNSOS

Case Number(s)

2023-1774

Tribunal

UNAT

Registry

New York

Date of Judgement

21 Dec 2023

President Judge

Judge Sandhu

Judge Gao

Judge Ziadé

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Implied administrative decision

Appointment (type)

Temporary appointment

TEST -Rename- Benefits and entitlements-45

Special Post Allowance

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Subject matter (*ratione materiae*)

Staff selection (non-selection/non-promotion)

Eligibility

Applicable Law

Administrative Instructions

- ST/AI/2003/3
- ST/AI/2010/3
- ST/AI/2010/4/Rev.1

Staff Rules

- Rule 11.2
- Rule 3.10

UNDT Statute

- Article 8

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

2016-UNAT-704

2021-UNAT-1132

2018-UNAT-821

2014-UNAT-481