

UNDT/2024/095, Fagasinski

UNAT Held or UNDT Pronouncements

General verbal statements, which the Applicant asserts were made by his First Reporting Officer during team meetings, cannot constitute an express promise to renew his TA. More importantly, such verbal statements lacked the essential elements of a proper and concrete offer of renewal, such as the duration of the extension and the name of the appointee. Furthermore, the Tribunal found that no official commitment was made to the Applicant in writing to substantiate an expectation of renewal of his TA.

The Tribunal found that performance management procedures governed by ST/AI/2010/5 and established UNAT jurisprudence on the matter set in Ncube were followed. Accordingly, the Tribunal determined that the reason provided for the non-renewal of the Applicant's TA was lawful and supported by the facts. It found that the Applicant's performance evaluation procedure was proper and conducted in accordance with the applicable norms, and that the rating of "partially meets performance expectations" was supported by reliable facts.

The Tribunal further found that the Applicant did not adduce any evidence to prove the improper motivation on the part of his FRO or that improper motives influenced the contested decision.

The Tribunal consequently decided to reject the application in its entirety.

Decision Contested or Judgment/Order Appealed

The decision not to renew the Applicant's Temporary Appointment ("TA") for unsatisfactory performance.

Legal Principle(s)

Renewing a temporary appointment is not an entitlement of a staff member, but rather a discretionary measure of the Administration. A legitimate expectation of renewal must not be based on a mere verbal assertion, but on a firm commitment to renewal revealed by the circumstances of the case. Moreover, a promise to renew a fixed-term appointment must at least “be in writing” and contain “the essential elements of a proper and concrete offer of renewal, such as the duration of the extension”.

The Dispute Tribunal must give deference to the Administration’s appraisal of the performance of staff members. The Tribunal cannot review *de novo* a staff member’s appraisal or place itself in the role of the decision-maker and determine whether it would have renewed the contract based on the performance appraisal.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Fagasinski

Entity

OHCHR

Case Number(s)

UNDT/GVA/2023/051

Tribunal

UNDT

Registry

Geneva

Date of Judgement

12 Nov 2024

Duty Judge

Judge Sun

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

No expectancy of renewal

Non-renewal

Applicable Law

Administrative Instructions

- ST/AI/2010/4/Rev.1
- ST/AI/2010/5

Staff Rules

- Rule 4.12(c)

Related Judgments and Orders

2018-UNAT-825

2014-UNAT-411

2017-UNAT-721

2011-UNAT-115

2019-UNAT-902

2020-UNAT-1068

2015-UNAT-500

2015-UNAT-522

2015-UNAT-580

2010-UNAT-085

2011-UNAT-138

2011-UNAT-153

2013-UNAT-341

UNDT/2017/008

2010-UNAT-021

2010-UNAT-084

2011-UNAT-110

2017-UNAT-757