



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1587

Neha Mehta
(Respondent/Applicant)

v.

Secretary-General of the United Nations
(Appellant/Respondent)

JUDGMENT

Before:	Judge Katharine Mary Savage, Presiding Judge Leslie F. Forbang Judge Gao Xiaoli
Case No.:	2025-2006
Date of Decision:	31 October 2025
Date of Publication:	11 November 2025
Registrar:	Juliet E. Johnson

Counsel for Neha Mehta:	Pratyush Miglani
Counsel for Secretary-General:	Rupa Mitra

JUDGE KATHARINE MARY SAVAGE, PRESIDING.

1. Ms. Neha Mehta (Ms. Mehta), a former staff member of the United Nations Development Programme (UNDP) contested the decision of the Administration not to confirm her probationary period and, as a result, terminate her fixed-term appointment (FTA) (contested decision).
2. On 31 December 2024, by Judgment No. UNDT/2024/114 (impugned Judgment),¹ the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) granted Ms. Mehta's application, rescinded the contested decision, and fixed the alternative compensation in lieu of rescission at the equivalent of Ms. Mehta's net base salary from 19 September 2023 to 31 August 2024.
3. The Secretary-General lodged an appeal against the impugned Judgment with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal).
4. For the reasons set out below, the Appeals Tribunal grants the appeal and reverses the impugned Judgment.

Facts and Procedure

5. On 1 September 2022, Ms. Mehta joined UNDP as a Regional Digital Hub Manager in the Inclusive Digital Economies (IDE) Unit in the United Nations Capital Development Fund (UNCDF), at the P-5 level, on a two-year FTA.² Her FTA was subject to the successful completion of a one-year probationary period, in accordance with the UNDP Probation Upon Appointment Policy (Probation Policy).
6. Upon appointment, Ms. Mehta sought authorization to telecommute from Delhi, India. Her request was approved and a telecommuting agreement was signed, which provided, *inter alia*, that "both sides may terminate the telecommuting agreement with one month notice or earlier if by mutual agreement" and that her supervisor "may terminate the agreement with immediate effect if in their judgment the conditions for telecommuting [were] no longer met".³
7. Between 4 and 11 October 2022, Ms. Mehta and the IDE Director discussed her work plan. On 11 October 2022, she shared her finalized work plan with her direct supervisor.⁴

¹ *Mehta v. Secretary-General of the United Nations*, Judgment No. UNDT/2024/114.

² Letter of appointment of Ms. Mehta.

³ Telecommuting agreement.

⁴ Impugned Judgment, para. 5.

8. On 4 October 2022, the IDE Director emailed Ms. Mehta, requesting that she inform him of when she planned to travel to Suva, Fiji, noting that the initial telecommuting arrangement was coming to an end.⁵ Later that same month, he informed Ms. Mehta that she was required to travel to her duty station to assume her functions in person.⁶

9. On 27 October 2022, the IDE Deputy Director reiterated to Ms. Mehta by e-mail that she was required to report to her duty station immediately, stating that “[t]he telecommuting arrangement [was] allowed for 30 days only” and that “[a]ny extension must be authorized by senior leadership of UNCDF – beyond [her] immediate supervisor”.⁷

10. On 2 November 2022, the IDE Director again informed Ms. Mehta that, as previously discussed, he “would like [her] to report to Fiji as [her] new duty station asap after [she comes] back to India [as this] will enable [her] to meet with the team and UNDP colleagues before people start leaving on their end-of-the-year breaks”.⁸

11. On 2 December 2022, the IDE Director and the IDE Deputy Director conducted Ms. Mehta’s first performance review. On 6 December 2022, the IDE Deputy Director shared with Ms. Mehta by e-mail the minutes of her performance evaluation discussion, outlining concerns, including regarding her failure to report to the duty station.⁹

12. On 13 December 2022, the IDE Director provided Ms. Mehta with her probationary performance appraisal report, reiterating the concerns discussed at the 2 December 2022 meeting. Ms. Mehta provided her comments on both the minutes and the probationary performance appraisal report on 28 December 2022.¹⁰

13. On 27 January 2023, Ms. Mehta reported for duty in Fiji.

14. On 1 February, 23 March, 5 April and 18 May 2023, the IDE Director and the IDE Deputy Director held “follow-up meetings with [Ms. Mehta] to provide support, discuss performance

⁵ E-mail dated 4 October 2022 from the IDE Director to Ms. Mehta.

⁶ E-mail dated 2 November 2022 from the IDE Director to Ms. Mehta.

⁷ E-mail dated 27 October 2022 from the IDE Deputy Director to Ms. Mehta.

⁸ E-mail dated 2 November 2022 from the IDE Director to Ms. Mehta.

⁹ E-mail dated 6 December 2022 from the IDE Deputy Director to Ms. Mehta.

¹⁰ E-mail dated 28 December 2022 from Ms. Mehta to the IDE Director.

concerns and continuing improvements. Contemporary summaries of the meetings were prepared and shared with [Ms. Mehta]”.¹¹

15. On 5 July 2023, the IDE Director held a second performance review with Ms. Mehta and informed her that her overall rating for the probationary period was not satisfactory.

16. On 8 July 2023, the IDE Director shared with Ms. Mehta the minutes from the 5 July 2023 meeting along with a probationary performance appraisal report. He confirmed to her that the Administration would report her non-satisfactory performance to UNCDF senior management, which would take the final decision.¹² Ms. Mehta provided her comments on the minutes on 14 July 2023.¹³

17. On 19 July 2023, the IDE Director and Ms. Mehta’s second-level supervisor, the UNCDF Officer-in-Charge, recorded in the probationary performance appraisal report the decision not to confirm Ms. Mehta’s probationary period.¹⁴

18. On 6 August 2023, a UNCDF Human Resources Specialist informed Ms. Mehta by e-mail that, in light of the decision not to confirm her probation, the Office of Human Resources would seek approval to terminate her FTA effective 18 September 2023.¹⁵ On 11 August 2023, Ms. Mehta provided her comments to the UNCDF Human Resources Specialist by e-mail.¹⁶

19. On 28 August 2023, the Assistant Secretary-General, Assistant Administrator and Director, Bureau for Management Services notified Ms. Mehta by letter of the decision to terminate her FTA on 18 September 2023.¹⁷

20. On 19 September 2023, Ms. Mehta separated from service.

21. On 6 September 2023, Ms. Mehta requested management evaluation of the contested decision.

¹¹ Impugned Judgment, para. 11.

¹² E-mail dated 8 July 2023 from the IDE Director to Ms. Mehta.

¹³ E-mail dated 14 July 2023 from Ms. Mehta to the IDE Director.

¹⁴ 19 July 2023 Probationary performance appraisal report.

¹⁵ Impugned Judgment, para. 15. See also e-mail dated 6 August 2023 from a UNCDF Human Resources Specialist to Ms. Mehta.

¹⁶ E-mail dated 11 August 2023 from Ms. Mehta to the UNCDF Human Resources Specialist.

¹⁷ Letter of termination of FTA from the Assistant Secretary-General, Assistant Administrator and Director, Bureau for Management Services to Ms. Mehta dated 28 August 2023.

22. On 14 October 2023, the UNDP Associate Administrator informed Ms. Mehta by letter of his decision to uphold the contested decision.¹⁸

23. On 13 January 2024, Ms. Mehta filed an application with the Dispute Tribunal challenging the contested decision.

Impugned Judgment

24. On 31 December 2024, the UNDT issued the impugned Judgment, granting Ms. Mehta's application.

25. The UNDT found that Ms. Mehta's claims relating to the lack of compensation for work performed between July and August 2022 were not receivable *ratione materiae* as she was not yet a staff member and therefore lacked standing to contest the decisions taken by the Administration at that time. Furthermore, these claims had not been submitted for management evaluation in a timely manner.¹⁹

26. Turning to the merits of the case, the UNDT found that it had no jurisdiction to review the outcome of Ms. Mehta's management evaluation request.²⁰ It also dismissed Ms. Mehta's contention that the Administration did not follow the proper procedure in taking the contested decision. On the contrary, it held that the Administration followed the requirements set out in the Probation Policy.²¹

27. Nevertheless, the UNDT concluded that Ms. Mehta's performance had not been evaluated in a fair and objective manner. It found that the Administration's concerns regarding her failure to report to her duty station lacked "sound basis".²² The UNDT highlighted that the first person to raise concerns with Ms. Mehta about her failure to report to her duty station after 30 days of telecommuting was the IDE Deputy Director on 27 October 2022, and not her first-level supervisor.²³ Similarly, it noted that there was no evidence that Ms. Mehta had been informed, prior to late October or early November 2022, that her telecommuting agreement was limited to 30 days.²⁴ On the contrary, the telecommuting agreement itself stated that "both sides may

¹⁸ Management evaluation response dated 14 October 2023.

¹⁹ Impugned Judgment, paras. 32-37.

²⁰ *Ibid.*, para. 43.

²¹ *Ibid.*, paras. 46-52.

²² *Ibid.*, para. 53.

²³ *Ibid.*, para. 54.

²⁴ *Ibid.*, paras. 58 and 62.

terminate the telecommuting agreement with one month notice or earlier if by mutual agreement” and that her supervisor “may terminate the agreement with immediate effect if in their judgment the conditions for telecommuting [were] no longer met”.²⁵ Despite this, the issue became a “significant focus of her performance appraisal from the first appraisal meeting” and was cited as a “performance shortcoming”.²⁶

28. Regarding the second probationary performance appraisal, the UNDT acknowledged that although several “serious performance-related concerns” were raised, the Administration again cited Ms. Mehta’s failure to report to the duty station as “the final shortcoming before indicating that her performance was unsatisfactory”.²⁷ Therefore, the UNDT concluded that “unfounded views regarding the initial duration of [Ms. Mehta]’s telecommuting status tainted the assessment of [her] performance”.²⁸

29. The UNDT also found that the IDE Deputy Director acted as Ms. Mehta’s *de facto* supervisor and that the tone and substance of some of his communications with her gave rise to an “appearance of bias against her that [was] more probable than not to have permeated the appraisal process”.²⁹ The UNDT concluded that although “[s]ome of the other concerns raised in the appraisals may have merit (...) disaggregation of any valid concerns from the supervisors’ biased perspective against [Ms. Mehta was] not possible in all circumstances of this case”.³⁰

30. Finally, the UNDT found that the performance management process was further tainted by the introduction of new objectives in December 2022, which gave Ms. Mehta reduced time to achieve them.³¹

31. On this basis, the UNDT rescinded the contested decision and fixed the alternative compensation in lieu of rescission at the equivalent of Ms. Mehta’s net base salary from 19 September 2023 to 31 August 2024. Her claim for moral damages was dismissed.³²

²⁵ Telecommuting agreement.

²⁶ Impugned Judgment, paras. 59-60.

²⁷ *Ibid.*, para. 65.

²⁸ *Ibid.*, para. 67.

²⁹ *Ibid.*, paras. 68-69.

³⁰ *Ibid.*, para. 73.

³¹ *Ibid.*, paras. 74-75.

³² *Ibid.*, paras. 77-79.

Procedure before the Appeals Tribunal

32. On 3 March 2025, the Secretary-General filed an appeal against the impugned Judgment with the Appeals Tribunal, to which Ms. Mehta responded on 5 May 2025.

Submissions

The Secretary-General's Appeal

33. The Secretary-General requests the Appeals Tribunal to reverse the UNDT's finding that Ms. Mehta's performance assessment was not objective and fair, including the order to rescind the contested decision. He further requests the Appeals Tribunal to affirm the UNDT's findings in all other aspects of the impugned Judgment.

34. The Secretary-General submits that the UNDT erred in fact and law in concluding that Ms. Mehta's performance was not fairly and objectively evaluated. In this regard, the Secretary-General first submits that the UNDT erred in fact and law in finding that the Administration's concerns about Ms. Mehta's failure to report to her duty station lacked sound basis.

35. Specifically, the Secretary-General contends that the UNDT incorrectly stated that the first person to raise concerns with Ms. Mehta about her failure to report to her duty station after 30 days of telecommuting was the IDE Deputy Director by e-mail on 27 October 2022. He clarifies that Ms. Mehta was previously informed during a discussion with the IDE Director in the week of 24-25 October 2022 that the telecommuting period was limited to 30 days.³³ Furthermore, the Secretary-General asserts that the UNDT improperly focused on whether Ms. Mehta was aware of this limitation from the beginning of her appointment. He notes that even assuming, *arguendo*, that she was not initially informed, she was certainly made aware by October 2022 and yet failed to report to the duty station until January 2023 or to take concrete steps to obtain her visa before December 2022. The Secretary-General also observes that, from the beginning of her appointment in September 2022, Ms. Mehta was aware that there was a limit to her telecommuting arrangement, given that in an e-mail dated 8 September 2022 from Ms. Mehta to the IDE Director,

³³ The Secretary-General refers to an e-mail dated 2 November 2022 from the IDE Director to Ms. Mehta.

she stated that she intended to visit the New York Headquarters “towards the end of the telecommuting period”.

36. The Secretary-General contends that the UNDT also failed to consider, as a legal matter, that the IDE Director had repeatedly instructed Ms. Mehta to report to the duty station as soon as possible, in accordance with the telecommuting agreement which expressly provides that the Head of the Office or IDE Director “may terminate the agreement with immediate effect if in their judgment the conditions for telecommuting [were] no longer met”.

37. The Secretary-General also argues that the UNDT relied on irrelevant factors and failed to consider relevant ones in concluding that the Administration’s concerns lacked sound basis. He notes, for instance, that the UNDT referred to Ms. Mehta’s actions and discussions prior to her employment, which are irrelevant to the contested decision. He further observes that the UNDT accepted, as justification for her delayed arrival, Ms. Mehta’s claims that there were “uncertainties and blocking [her] mission payments and travel lump sum, [she] [was] unable to spend [her] own money to book the air travel [and she had not] received a visa for [her] dependent mother, who would be joining [her] at the duty station”. The Secretary-General clarifies that: i) as of 21 December 2022, Ms. Mehta had not even requested a travel lump sum; ii) she was not entitled to delay her arrival at the duty station based on alleged unpaid work performed before the start of her FTA; and iii) as of 5 December 2022, she was still pursuing the renewal of her mother’s passport.

38. Accordingly, the Secretary-General submits that, having repeatedly instructed Ms. Mehta to report immediately to her duty station, the Administration was entitled to consider her failure to follow those instructions and the applicable rules and procedures, along with the serious performance concerns stemming from her long absence from the duty station. He further argues that her “long delay in traveling to the duty station seriously affected her performance, *inter alia* because she was not able to properly engage with her team and interact with partners and in the Fiji geographical area”.

39. Second, the Secretary-General submits that the UNDT erred in law by failing to accord any deference to the Administration’s appraisal of Ms. Mehta’s performance, particularly in the context of the probationary period, which the UNDT should have considered. The Secretary-General recalls that, pursuant to Appeals Tribunal jurisprudence, performance standards fall within the

Secretary-General's prerogative, unless they are manifestly unfair or irrational.³⁴ Therefore, the Administration has discretion to establish "the criteria that a staff member should meet and to terminate the service of a staff member upon unsatisfactory performance of those prescribed criteria".³⁵

40. In the present case, the Secretary-General argues that the UNDT improperly dismissed the Administration's concerns, reflected in both the first and second probationary performance appraisal reports.³⁶ He submits that the UNDT should have analyzed and weighted these concerns – especially as they were described by the UNDT as "serious performance-related concerns" – and determined whether they constituted a permissible and sufficient basis for the contested decision, even setting aside the concerns related to Ms. Mehta's prolonged absence from the duty station.

41. Relying on *Sarwar*, the Secretary-General submits that the UNDT also failed to consider the very purpose of a probationary period, which is "not only to assess whether the employee has the technical skills or ability to do the job, but also serves the purpose of ascertaining whether the employee is suitable and has the ability to fit in".³⁷ He argues that, in the present case, Ms. Mehta's deficiencies in core competencies made the continuation of her employment untenable, particularly given that, by the end of her second performance review, she was assessed as needing improvement on all the competencies identified in her job description.

42. The Secretary-General also challenges the UNDT's conclusion that the performance management process was tainted by the introduction of new objectives in December 2022, with timelines to be kept. He notes that this finding contradicts the UNDT's own conclusion that the Administration followed the proper procedure in reaching the contested decision and fails to accord any deference to the Administration's discretion in determining the timing and nature of Ms. Mehta's objectives.

43. Last, the Secretary-General asserts that the UNDT erred in fact and law in finding that Ms. Mehta's performance assessment was tainted by bias or appearance of bias. He submits that, contrary to the UNDT's conclusion, the communications between the IDE Deputy Director and Ms. Mehta merely reflect work-related criticisms and do not establish any appearance of bias. He

³⁴ *Mustapha Guenfoudi v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1364, para. 80.

³⁵ *Ibid.*, para. 81.

³⁶ The Secretary-General listed these concerns at paragraph 39 of his appeal brief.

³⁷ *Sarwar v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-757, para. 79.

also notes that the IDE Deputy Director did not play an “overarching or dominant role” in Ms. Mehta’s performance evaluation process. He adds that, in any case, given the small size of the office, it would have been reasonable for the IDE Deputy Director to be involved in Ms. Mehta’s day-to-day work. Furthermore, the Secretary-General highlights that even assuming some form of bias by the IDE Deputy Director, it would not have tainted the entire appraisal process or affected the contested decision.

44. Therefore, the Secretary-General maintains that the UNDT improperly found that “any valid concerns”, even those that “may have merit” regarding Ms. Mehta’s performance could not be considered due to the alleged bias of Ms. Mehta’s supervisors.³⁸ On the contrary, he reiterates that the UNDT failed to properly exercise its jurisdiction with respect to the other performance concerns legitimately raised by the Administration.

Ms. Mehta’s Answer

45. Ms. Mehta requests the Appeals Tribunal to dismiss the appeal, affirm the impugned Judgment and award her the costs of the appeal.

46. Ms. Mehta submits that the UNDT did not err in finding that her performance was not fairly and objectively evaluated. In this regard, she argues that the Secretary-General has failed to identify any specific error committed by the UNDT that would warrant reversal of the impugned Judgment and merely expressed his disagreement with the UNDT’s findings.

47. Ms. Mehta contends that the UNDT correctly concluded that the Administration’s concerns about her failure to report to the duty station lacked sound basis. She further emphasizes that the UNDT properly found that the Administration focused “heavily on performance issues that [it] considered to have resulted from [Ms. Mehta]’s late arrival at the duty station”.³⁹

48. Ms. Mehta submits that the UNDT correctly found that no policy or agreement stipulated that her telecommuting agreement was limited to 30 days. She asserts that the Secretary-General failed to provide any documentary evidence demonstrating that she was informed of the 30-day limitation at the beginning of her FTA. On the contrary, she highlights that on 14 October 2022, the IDE Director instructed her to attend an induction in New York “before traveling to settle into

³⁸ Impugned Judgment, para. 73.

³⁹ *Ibid.*, para. 64.

Fiji”.⁴⁰ It was only on 27 October 2022, she argues, that the IDE Deputy Director first informed her that her telecommuting agreement had expired after 30 days. She also contests the Secretary-General’s allegation that she was instructed by the IDE Director in October 2022 to report to the duty station as soon as possible, noting that such instructions were not given until November 2022.

49. Ms. Mehta maintains that her delayed arrival at the duty station was due to multiple factors that the Secretary-General failed to consider. She cites, among other things, the Administration’s failure to provide: i) the travel lump sum to which she was entitled prior to her relocation; and ii) timely support with respect to her travel documents and visa letters.

50. Ms. Mehta asserts that the UNDT was fully cognizant of the jurisprudence requiring deference to the Administration’s discretion in performance evaluations and that it properly exercised its power of judicial review. She argues that the UNDT correctly focused on the principles of “objectivity, impartiality, fairness and unbiased decision making in the administrative process without substituting its own assessment for that of the Administration”. She adds that the UNDT correctly found that the Administration failed to consider facts pertaining to her performance goals, which could have been objectively verified.

51. Ms. Mehta highlights that the only issues raised during her first performance review were her alleged delayed arrival at the duty station and a “concocted issue” involving an alleged breach of travel protocol with respect to a mission in Singapore. She contends that the Administration failed to articulate her other areas of improvements.⁴¹ Ms. Mehta further notes that during the follow-up meetings held on 1 February, 23 March, 5 April and 18 May 2023, neither the IDE Director nor the IDE Deputy Director raised any concern about her performance.

52. Regarding the second performance review meeting held on 5 July 2023, Ms. Mehta asserts that it was the first time where performance-related concerns were discussed with her. She notes that she was given only three weeks to demonstrate improvement across all performance areas, which, she argues, indicates that the termination of her FTA was a *fait accompli*. She also highlights that she had no real opportunity to improve in such a short period. She points out that her 2023 performance objectives were only communicated to her in February 2023, giving her just five months to meet them before her performance was reviewed. Accordingly, she argues that she

⁴⁰ E-mail dated 14 October 2022 from the IDE Director to Ms. Mehta.

⁴¹ See probationary performance appraisal report of December 2022.

was not given a timely warning that her FTA was at risk of termination if her performance did not improve, nor was there any support provided by the Administration to help her meet the identified goals.

53. Ms. Mehta maintains that the UNDT correctly found that her performance assessments were tainted by bias on the part of the IDE Deputy Director. She notes that the Secretary-General did not refute the evidence she submitted on this point and highlights that his “fleeting statements (...) that the e-mails cited by way of example by the [UNDT] do not show any appearance of bias [are] devoid of merit, misleading and contrary to the record”. Ms. Mehta also provides further examples of alleged bias that were not addressed by the UNDT, including the IDE Deputy Director’s revocation of her authority to approve mission-related travel for subordinates, based on the false assertion that she had previously approved her own travels on two occasions.

54. Ms. Mehta submits that the Secretary-General’s assertion that the IDE Director was acting as her supervisor is erroneous. She contends that the IDE Director acted only as a “*de jure* supervisor” and served merely as a “rubber stamp” for the IDE Deputy Director, who was, in fact, “the central figure” in evaluating her performance.

55. Finally, Ms. Mehta argues that the Administration’s reliance on her alleged failure to build and strengthen the team in UNCDF Fiji is misplaced. She explains that multiple factors contributed to delays or the suspension of recruitment processes, none of which were attributable to any delay or shortcoming on her part.

Considerations

56. In issue in this appeal is whether the UNDT erred in fact and in law in rescinding the contested decision on the basis that the Administration failed to evaluate Ms. Mehta’s performance in a fair and objective manner and that the performance management process was tainted by the introduction of new objectives in December 2022, which gave Ms. Mehta reduced time to achieve them.

57. The purpose of a probationary period is “not only to assess whether the employee has the technical skills or ability to do the job, but also serves the purpose of ascertaining whether the employee is suitable and has the ability to fit in”.⁴² In *Guenfoudi*,⁴³ we emphasized that some

⁴² *Sarwar Judgment, op. cit.*, para. 79.

⁴³ *Mustapha Guenfoudi Judgment, op. cit.*, para. 80.

deference is to be given to the Administration's appraisal of a staff member's performance, particularly in the context of a probationary period. This is so in that performance standards fall within the Secretary-General's prerogative, unless they are manifestly unfair or irrational, with the Administration having discretion to establish "the criteria that a staff member should meet and to terminate the service of a staff member upon unsatisfactory performance of those prescribed criteria".⁴⁴

58. From the evidence placed before the UNDT, it is apparent that the Head of the Office or IDE Director "may terminate" a telecommuting agreement "with immediate effect if in their judgment the conditions for telecommuting are no longer met"; and that Ms. Mehta was aware that there was a limit to the duration of her telecommuting arrangement. Despite contending that no policy, agreement or other documentary evidence proved that her telecommuting agreement was limited to 30 days, Ms. Mehta does not dispute that on 14 October 2022, the IDE Director instructed her to attend an induction in New York "before traveling to settle into Fiji".⁴⁵ By this date, she was therefore aware that her telecommuting period was to end. Yet, it was only on 27 October 2022, she argues, that the IDE Deputy Director first informed her that her telecommuting agreement had expired after 30 days and only in November 2022 that she was instructed by the IDE Director to report to her duty station as soon as possible. Notably however, even before these dates, in Ms. Mehta's own e-mail to the IDE Director dated 8 September 2022, she confirmed that she would visit New York Headquarters "towards the end of the telecommuting period". It was therefore clear by this point that she was aware that her telecommuting period was to endure only for a limited duration and was to end shortly.

59. However, even if it were to be accepted that she only became aware on 27 October 2022 that her period of telecommuting was for a limited duration, which is not borne out by the evidence, it is clear that, on her own version, Ms. Mehta knew by this date that her period of telecommuting was to end and that she was required to report to her duty station as soon as possible. Yet, despite her knowledge for months that she was required to report to her duty station without delay, Ms. Mehta only reported to Fiji on 27 January 2023.

60. No legal basis was advanced to prove that Ms. Mehta held any legal entitlement to delay her arrival at her duty station given unpaid work performed by her before the start of her FTA. Had such an unusual arrangement been made, it would reasonably have been expected to have been

⁴⁴ *Ibid.*, paras. 80-81.

⁴⁵ E-mail dated 14 October 2022 from the IDE Director to Ms. Mehta.

recorded in writing by the parties, which it was not. Ms. Mehta relied on “uncertainties and blocking [her] mission payments and travel lump sum”, which apparently led to her delay in arriving at her duty station. This included the logistics of travel, including travel at her own cost. However, the facts show that as of 21 December 2022, Ms. Mehta had not yet requested payment of a travel lump sum and had delayed in applying for a visa for her mother who was to accompany her. Her own delay in attending to these arrangements did not justify or excuse her failure to act in accordance with the instruction given to her to report timeously at her duty station.

61. In assessing her performance, the Administration was clearly entitled to have regard to the extent of, reasons for, and consequences of Ms. Mehta’s delay in acting in accordance with the instruction given to her to report to her duty station. This included the impact that the delay placed on her ability to engage properly with her team or interact with partners in the Fiji geographical area. The consideration of such factors was of direct relevance to the assessment of whether Ms. Mehta was able to perform the job required of her, in the manner expected of her, and whether she was a suitable fit for the post. Requiring Ms. Mehta to adhere to the instruction given, to engage with her team, and to interact with partners in the vicinity of her duty station, constituted a manifestly reasonable standard of performance. For these reasons, the UNDT’s finding that the Administration’s criticism of Ms. Mehta’s failure to report to her duty station lacked “sound basis” is without merit.⁴⁶

62. The task of the UNDT was to have regard to the probationary performance appraisal process undertaken and the evidence of serious performance-related concerns raised, in order to determine whether these constituted a permissible and sufficient basis for the contested decision. Despite its conclusion that the Administration followed the proper procedure in reaching the contested decision, the UNDT found that Ms. Mehta’s performance management process was tainted by the introduction of new objectives in December 2022.⁴⁷ This finding overlooked the fact that it was performance concerns, rather than new objectives, that were discussed with Ms. Mehta at a meeting on 2 December 2022; that these concerns were provided to her on 13 December 2022 by the IDE Director in a probationary performance appraisal report; and that on 27 December 2022, Ms. Mehta provided comments on both the minutes of the 2 December 2022 meeting and the probationary performance appraisal report.

⁴⁶ Impugned Judgment, para. 53.

⁴⁷ *Ibid.*, para. 74.

63. Ms. Mehta also took issue with the period of time she was given to meet the performance objectives imposed. Her 2023 performance objectives were given to her in February 2023, with the result that she had five months to meet those objectives. Furthermore, after her second performance review, Ms. Mehta argued that she was given only three weeks to demonstrate improvement across all performance areas. Yet, by her second performance review, a number of performance-related concerns had already been raised with Ms. Mehta since December 2022; she had been assessed, as a probationary staff member, to be needing improvement on all the competencies identified in her job description; and she had been given a reasonable opportunity to do so. What is clear is that in its reasoning and findings, the UNDT overlooked the fact that Ms. Mehta had been informed of the areas in which performance improvement was required over an extended period and had been given a reasonable opportunity to improve her performance but had failed to do so.

64. There was similarly no justification for the UNDT's finding that the tone and substance of some of the IDE Deputy Director's communications with Ms. Mehta gave rise to an appearance of bias against her which, it found, more probable than not, had "permeated the appraisal process".⁴⁸ The communications between the IDE Deputy Director and Ms. Mehta indicate the existence of work-related criticisms and we are not satisfied that they establish any appearance of bias. There is no evidence that the IDE Deputy Director played an "overarching or dominant role" in Ms. Mehta's performance evaluation process, or that he was biased against her in doing so. We accept that the small number of staff members in the office made it reasonable for the IDE Deputy Director to be involved in Ms. Mehta's day-to-day work performance, particularly when difficulties with her performance had been identified, and there is no evidence that this involvement tainted the entire performance appraisal process or impacted negatively on the contested decision. The UNDT therefore erred in finding that, given the role of the IDE Deputy Director, "any valid concerns" regarding Ms. Mehta's performance, even those that "may have merit", could not be considered due to the alleged bias of her supervisors.⁴⁹ This overlooked the clear evidence of reasonable and legitimate performance concerns raised by the Administration with Ms. Mehta regarding her performance while on probation, which went well beyond simply her failure to report to her duty station in Fiji timeously.

⁴⁸ *Ibid.*, para. 69.

⁴⁹ *Ibid.*, para. 73.

65. We are satisfied that there is no merit in the contention that the termination of Ms. Mehta's FTA was a *fait accompli* on the basis that she was given no real opportunity to improve her performance over a short period; nor did the evidence show that the Administration failed to follow the proper procedure in reaching the contested decision. Ms. Mehta stated that in her first performance review a "concocted issue" was raised involving an alleged breach of travel protocol with respect to a mission in Singapore, but that the Administration failed to articulate her other areas of improvement. In addition, she argued that in follow-up meetings held on 1 February, 23 March, 5 April and 18 May 2023, neither the IDE Director nor the IDE Deputy Director raised any concern about her performance, and that it was only during her second performance review meeting on 5 July 2023 that concerns were raised regarding her performance, following which she was given only three weeks to demonstrate improvement across all performance areas.

66. The performance standards required of Ms. Mehta were by no means manifestly unfair or irrational. On the contrary, the facts indicate that the concerns raised regarding Ms. Mehta's performance were patently reasonable. In addition to her delay in complying with the instruction to report to her duty station, several other legitimate performance-related issues were raised with Ms. Mehta. These included her staying in New Zealand for several days longer than the rest of her team with no clear justification for doing so; prioritizing travel that was not related to the Pacific programmes; missing a critical meeting for the region; her cancellation of her participation in that critical meeting with such short notice that another staff member could not replace her in person; her failure to maintain the previously established biweekly calls and monthly work calls and to maintain the routine machinery to keep the regular management engagement; her failure to keep her colleagues informed of relevant important matters (as set out in the first probationary report) as well as not responding to staff messages; delegating her own work to team members to execute it for her; postponing management as well as stakeholder meetings; inability to prioritize her work properly; producing work that was below that of a P-5 level; demonstrating poor planning; failing to conduct herself professionally; failing to convene needed meetings; and failing to familiarize herself with rules and policies.⁵⁰

67. The purpose of a probationary period is to assess whether the employee has the technical skills and ability to do the job and to ascertain whether the employee is a suitable fit for the position. The degree of deference to be given to the Administration in its appraisal of the performance of a probationary staff member does not allow the UNDT to second-guess performance standards

⁵⁰ Appeal brief, para. 39.

which fall within the Secretary-General's prerogative, unless they are manifestly unfair or irrational. What is clear from its approach to the matter is that the UNDT failed to have regard to the fact that the Administration was entitled to exercise discretion in determining the timing and nature of the performance objectives which Ms. Mehta was required to meet. The UNDT erred in finding that Ms. Mehta's performance was not fairly and objectively evaluated. It failed to have appropriate regard to the fact that Ms. Mehta's deficiencies in core competencies had been shown to make the continuation of her probationary employment untenable.

68. It follows that, in reaching the conclusion that it did, the UNDT erred in fact and in law in rescinding the contested decision of the Administration. The appeal must therefore be granted and the impugned Judgment reversed. No award of costs is warranted.

Judgment

69. The Secretary-General's appeal is granted, and Judgment No. UNDT/2024/114 is hereby reversed.

Original and Authoritative Version: English

Decision dated this 31st day of October 2025 in New York, United States.

(Signed)

Judge Savage, Presiding

(Signed)

Judge Forbang

(Signed)

Judge Gao

Judgment published and entered into the Register on this 11th day of November 2025 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar