



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

ROZEFORT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Alan Gutman, ALD/OHR, UN Secretariat

Introduction

1. The Applicant, a former Team Assistant with the former United Nations Mission in Haiti (“MINUSTAH”) challenges the decision not to extend her fixed-term appointment. In response, the Respondent submits that the application is without merit.

2. For the reasons stated below, the Tribunal finds that the decision not to renew the Applicant’s appointment was lawful and rejects the application.

Facts

3. The Applicant claims that in 2015, she incurred a private debt.

4. By resolution 2350 (2017), the Security Council decided to close MINUSTAH on 15 October 2017. The Applicant’s fixed-term appointment was initially extended until that date. Thereafter, the Applicant’s fixed-term appointment was extended until 31 December 2017 to allow her to complete her maternity leave. The Applicant’s appointment was again extended on an exceptional basis until the expiry of MINUSTAH’s budget on 30 June 2018. The post encumbered by the Applicant, along with all remaining MINUSTAH posts, was abolished on that date and the Applicant separated from the Organization upon the expiry of her last fixed-term contract.

Consideration

5. The Applicant states that she “was hoping to get a different position even outside of the country to assist [her] with [her private] debts and [her] security situation”. She states further that because of her current pending case before the national courts, she is unable to find other jobs in Haiti.

6. The Respondent responds that the Applicant had no legitimate expectation of renewal of her fixed-term appointment after its expiration.

7. The Respondent adds that the Applicant’s post, along with all remaining MINUSTAH’s posts, was abolished with the liquidation of MINUSTAH’s budget. The Respondent clarifies that even if the newly created United Nations Mission for Justice Support in Haiti (“MINUJUSTH”) had had the authority to laterally transfer staff from MINUSTAH, which it did not have, it would have been unable to laterally transfer the Applicant as no team assistant posts exist in MINUJUSTH. In sum, the Administration could not place the Applicant in another post outside of the regular recruitment process.

8. Staff regulation 4.5(c) and staff rule 4.13(c) both provide that a fixed-term appointment does not carry any expectancy, legal or otherwise, of renewal.

9. In *Agha* 2019-UNAT-916, at paras. 16-17, the Appeals Tribunal recapitulated its long-standing case law concerning challenges of decisions not to renew fixed-term appointments stating that it is a well-established principle that fixed-term appointments do not carry an expectation of renewal. It stated that separation as a result of expiration of a fixed-term appointment takes place automatically, without prior notice, on the expiration date specified in the letter of appointment. It recalled, however, that a decision not to renew a fixed-term appointment can be challenged on the grounds that the Administration has not acted fairly, justly, or transparently with the staff member or was motivated by bias, prejudice or improper motive. The

Appeals Tribunal finally recalled that it is the applicant's burden to prove such factors played a role in the administrative decision.

10. In the present case, the record shows that the Applicant's fixed-term appointment was not extended beyond 30 June 2018 as the result of MINUSTAH's closure and liquidation.

11. Therefore, the reasons underlying the decision not to renew the Applicant's fixed-term appointment are lawful, namely the abolition of her post (see, for instance, *Lui* 2016-UNAT-659, para. 21), and corroborated by the evidence. The decision is therefore lawful.

12. The Tribunal further finds that as the Respondent rightly points out, the fact that the Applicant had incurred a personal debt, does not generate an obligation on her employer to provide her with an alternate position upon the closure of MINUSTAH.

13. In light of the above, the Tribunal finds that the decision not to renew the Applicant's fixed-term appointment beyond its expiration was lawful.

Conclusion

14. In light of the above, the application is rejected.

(Signed)

Judge Joelle Adda

Dated this 9th day of March 2020

Entered in the Register on this 9th day of March 2020

(Signed)

Nerea Suero Fontecha, Registrar