
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2022/061

Judgment No.: UNDT/2023/039

Date: 29 May 2023

Original: English

Before: Judge France

6. On 19 March 2022, the Head of Mission (HoM) informed the Applicant that he would no longer be performing the functions of Chief of Office, Political Affairs, but that instead he would perform the new

11. On 8 June 2022, the MEU found the request for SOA not receivable and upheld the reassignment decision.

12. On 13 July 2022, the Applicant filed the present application. The Respondent filed the reply on 18 August 2022 in which it is argued that the application is not receivable and, in any case, lacks merit.

13. As of the date of the application, the TJO selection process had not been concluded by UNAMI.

14. On 6 February 2023, the case was assigned to the undersigned judge.

15. By Order No. 038 (NBI/2023), issued on 15 February 2023, the Tribunal observed that the contested decision was to be of a temporary nature and ought to have been reviewed effective 1 January 2023. By the same Order, the parties were directed

19. Both parties filed their submissions pursuant to Order No. 050 (NBI/2023) on 27 February 2023.

Submissions

20. The Applicant submits that he is not making any claim in respect of pecuniary damages. He confirms that he retained his D-1 salary with related benefits and allowance throughout the period from 15 March 2022 to 16 January 2023. Accordingly, he suffered no pecuniary loss of salary or benefits. Damages claimed are moral and exemplary reputational and legal costs incurred from March 2022 to the conclusion of these proceedings. The Applicant seeks to rely on *Dia*,¹ where the Appeals Tribunal held that,

the identification of moral injury sustained can never be an exact science

stated by way of general principle, is that damages for a moral injury may arise from his contract of employment and/or breach of the procedural due process entitlements therein guaranteed.

21. In view of the above, the Applicant submits that the actions of UNAMI in clearly disregarding the interest of a highly dedicated and professional staff member, manipulating the recruitment system and the delegations of authority bestowed on the HoM for a capricious promotion at the expense of the Applicant also disregarded and corrupted the values of the Organization and blatant disregard for its rules and regulations. The highest possible standard is expected from the leaders of the Organization. Any moral compensation award needs also to confirm and disincentivize the unacceptability of blatant breaches of rules and regulations for ulterior motives.

22. The Applicant stresses that he is an experienced and highly regarded Senior Political Affairs Officer, who had also served with distinction in the most professionally and security challenging missions in the world, including UNAMA in Afghanistan, UNSOM in Somalia, and UNSMIL in Libya, at all times during extremely

¹*Dia* 2025-UNAT-553.

responsibilities; he even added that UNAMI Standard Operating Procedures on Field Office Coordination signed by the HoM and dated 11 June 2022 makes no mention whatsoever of any role for the staff member under the reassigned functions.

43. The Tribunal notes that the Respondent did not contest these allegations and gave no evidence of the correspondence of the new functions to the previous one.

44. In this situation, despite the position already covered, the Administration assigned the same functions on a temporary basis to a different staff member (the staff member who had covered the functions whilst the Applicant was in Libya, having a P-5 level) and even advertised the post by a TJO.

45. The TJO was contrary to ST/AI/2010/4/Rev.1 (Administration of temporary appointments) and General Assembly

reasons and with many flaws in the process.

48. The Tribunal also finds that in the situation, the contested decision objectively

his past

apply for TJO related to his own functions).

49. As UNAT stressed in *Kallon*⁶, the harm to *dignitas* or to reputation and career potential may thus be established on the totality of the evidence; the facts may also presumptively speak for themselves to a sufficient degree that it is permissible as a matter of evidence to infer logically and legitimately from the factual matrix, including

the nature of the breach, the manne, the manne,m0 61me1a1S30 g ann .00000912 0 612 792 reW*hBT/FC

Case No. UNDT/NBI/2022/061

Judgment No.: UNDT/2023/