



Counsel for Respondent: Self-represented

Counsel for Secretary General:

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13. On 28 February

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16. The country office in the UAE closed on 30 June 2018 and was succeeded by the Office of the United Nations Resident Coordinator. A few staff members were retained beyond 30 June 2018 to provide support to the Resident Coordinator's office in the UAE.

17. On 11 July 2018, the Respondent filed an application with the UNDT contesting the Secretary General's decision not to renew his appointment beyond 28 February 2018.

The UNDT Judgment

18. The UNDT rejected the Secretary-General's contention that the application was not receivable on the grounds that the Respondent had not submitted the contested decision for management evaluation. Before the Management Evaluation Unit (MEU), the Respondent had identified the contested decision as the as termination/abolition of his post but in the application sought review of the decision not to extend/renew his FTA. The UNDT held that the evidence showed that the Respondent before the MEU in substance challenged the non-renewal of his appointment. There is no appeal against this finding.

19. The Dispute Tribunal dismissed the Respondent's claim that the Administration had failed to afford him assistance under Staff Rule 9.6(e). The rule is not applicable when staff members are separated at the expiration of a FTA. There is no cross-appeal against this finding.

20. The Dispute Tribunal found the contested decision to be unlawful because the provided reasons for not renewing the appointment were not properly based on the facts, and the Administration did not act fairly, justly and transparently

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28. The Secretary-General contended further that the UNDT erred in law and fact when it concluded that the various justifications given by the Administration were not fully supported by the facts. On the contrary, the Secretary-General

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logical conclusion is that the contested decision was personal and motivated by *animus* designed to harm him. This, according to the Respondent, demonstrates that the Administration had ulterior motives.

34. In the cross-appeal, the Respondent submitted that given a similar post was allegedly re-advertised, such re-advertisement should serve as evidence that his functions continued on in the success

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39. As for the claim for moral damages, the Secretary-General argued that the letter from the psychiatrist provided by the Respondent was general in nature and did not link his condition to the administrative action. As such, the psychiatrist letter could not provide a basis for moral damages. !

Considerations

40. The Secretary-General's

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43. The MEU justified the decision for not extending the appointment to the end of June 2018 along with all the other staff members on the basis that the Respondent was the second most junior staff member, was working on an *ad hoc* basis on Partnerships and the abolition of his post would lead to significant savings. It may have been fairer to have selected the staff member with the least service. But allowing the Administration a margin of appreciation on the amount it wanted to save, the fact is that all the staff members were working on Partnerships and any selection would have led to savings. These *ex post facto* reasons for selecting the Respondent rather than one of the other staff members provide an inadequate justification, especially in light of the incoherence and the fact that the initial reason for the selection was unsustainable. As the UNDT correctly noted, there was a disconnect between the reasons provided internally and those provided in the management evaluation process.

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Judgment

50. The appeal and the cross-appeal are dismissed, and the Judgment of the UNDT is affirmed.

Original and Authoritative Version: