



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Case No. 2010-131

**Abdalla
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

Before: Judge Sophia Adinyira, Presiding
Judge Inés Weinberg de Roca
Judge Mary Faherty

Judgment No.: 2011-UNAT-138

Date: 8 July 2011

Registrar: Weicheng Lin

Counsel for Appellant: Self-represented

Counsel for Respondent: John Stompor

him because there was no available Language Assistant or Translator post at the FS-5 level, and that the post he was appointed against would be abolished.

9. On 1 November 2009, Abdalla's appointment was extended until 31 December 2009. On 31 December 2009, the Chief, HRS, informed Abdalla that his appointment would not be extended due to "unavailability of the function of Interpreter/Language Assistant at the FS-5 level". However, Abdalla's appointment was extended for a final time until 3 February 2010.

10. Following Abdalla's request for management evaluation, the decision not to renew his appointment was upheld by the Secretary-General. In March 2010, Abdalla filed an application with the Dispute Tribunal contesting the non-renewal decision.

11. On 4 August 2010, the Dispute Tribunal issued Judgment No. UNDT/2010/140, which rejected Abdalla's application. The Dispute Tribunal found that there was no right to renewal of a temporary appointment under the provisional Staff Rules, and that the decision not to renew the appointment was not tainted as a result of improper motives or countervailing circumstances. There was no improper exercise of discretion: the appointment was not renewed because there were no budgeted or approved posts for Language Assistants, Interpreters or Translators at Abdalla's level in UNAMI. Further, Abdalla was encumbering a post which was on loan from the Humanitarian Coordination Unit and was abolished in 2010. As Abdalla held a temporary appointment, he appeared to fall beyond the scope of provisional Staff Rule 9.6(e) which imposes a duty on the Organization to find an alternative post for certain staff members upon the abolishment of a post. The Dispute Tribunal found that, nevertheless, the Organization made a bona fides effort to find Abdalla an alternative post as his appointment was for a total period of nine months, during which time he had the chance to apply for vacant positions. However, Abdalla did not apply for any vacant post at UNAMI or other missions, and the Organization was not obliged to create a specific post for him.

12. The Dispute Tribunal also found that Abdalla did not have a legitimate expectancy of renewal of his contract. Abdalla claimed that there was an understanding that, within three months of his appointment, a post at the FS-5 level would be advertised. However, there was no evidence of such a commitment. Further, the Dispute Tribunal found that the decision not to renew Abdalla's temporary appointment was not tainted by

19. The Secretary-General requests that the Appeals Tribunal affirm the Judgment and reject the appeal in its entirety.

Considerations

20. Abdalla contested the decision by the Secretary-General not to renew his temporary appointment on the ground that he joined UNAMI with the understanding that within three months a post at the FS-5 level would be advertised and that he would be interviewed.

21. Temporary appointments are governed by Staff Rule 4.12 which provides, *inter alia*, as follows:

(a) A temporary appointment shall be granted for a period of less than one year to meet seasonal or peak workloads and specific short-term requirements, having an expiration date specified in the letter of appointment.

...

(c) A temporary appointment does not carry any expectancy, legal or otherwise, of renewal. A temporary appointment shall not be converted to any other type of appointment.

Staff Rule 9.4 stipulates:

A temporary or fixed-term appointment shall expire automatically and without prior notice on the expiration date specified in the letter of appointment.

22. Under the above rules, a staff member holding a temporary appointment has no expectancy of renewal of his or her appointment, or of conversion to any other type of appointment. These rules are similar to the staff rules applicable to fixed-term appointments.

23. In *Ahmed*, the United Nations Appeals Tribunal (Appeals Tribunal) held:

45. It is recognized that, if based on valid reasons and in compliance with procedural requirements, fixed-term appointments may not be renewed. Accordingly, an administrative decision not to renew a fixed-term appointment can be challenged as there is a duty and requirement on the Organization to act fairly, justly, and transparently in its dealings with the staff members.

would not have been eligible as he was a staff member at the FS-5 level. The UNDT found as a fact that Abdalla did not even apply for the post.

27. The evidence showed that there was no budgeted or approved post of Language Assistant, Interpreter, or Translator at his FS-5 level in UNAMI. The post he encumbered as Administrative Assistant at UNAMI was on loan from the Humanitarian Coordination Unit and it was abolished in December 2010. The UNDT “consider[ed] that the Organization made a bona fides effort by assigning him to UNAMI for a total of nine months” upon the abolition of his post at UNIIC; and that Abdalla had the opportunity to apply for vacant positions and be competitively selected, but that he failed to apply.

28. The arguments raised in the appeal are essentially identical to those raised before the UNDT. Abdalla fails to identify any specific error made by the UNDT. Abdalla has not met the burden of demonstrating how the UNDT erred in making the impugned Judgment.³

29. We note that the UNDT examined whether improper motives or countervailing circumstances existed in the decision not to renew Abdalla’s temporary appointment. The UNDT reached the conclusion that the non-renewal of Abdalla’s temporary appointment was not tainted by any discrimination or improper motives, and Abdalla failed to demonstrate any error warranting the reversal of the UNDT Judgment.

Judgment

30. The appeal is dismissed. The Judgment of the UNDT is affirmed.

Original and Authoritative Version: English

Dated this 8th day of July 2011 in Geneva, Switzerland.

(Signed)

Judge Adinyira, Presiding

(Signed)

Judge Weinberg de Roca

(Signed)

Judge Faherty

Entered in the Register on this 29th day of August 2011 in New York, United States.

(Signed)

Weicheng Lin, Registrar