



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

Judgment No. 2013-UNAT-288

**Debebe
(Respondent/Applicant)**

v.

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

JUDGMENT

Before: Judge Luis María Simón, Presiding
Judge Sophia Adinyira
Judge Richard Lussick

Case No.: 2012-315

Date: 28 March 2013

Registrar: Weicheng Lin

Counsel for Respondent/Applicant: Miles Hastie

Counsel for Appellant/Respondent: Rupa Mitra

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6. Mr. Debebe appealed by first writing to the Secretary-General requesting administrative review and then seizing the Joint Appeals Board (JAB). In a report dated 17 May 2007, the JAB concluded that Mr. Debebe had a reasonable expectation of promotion and that the L-1 post had been created in place of his G-7 post, resulting in Mr. Debebe performing the L-1 functions from the time of reclassification. The JAB recommended that Mr. Debebe be promoted to the L-1 level against his own reclassified post, and that he be paid the difference between his G-7 salary and the L-1 salary from May 2004, when the post was first reclassified, until his promotion.

7. In August 2007, Mr. Debebe was informed of the Secretary-General's decision in light of the JAB recommendations. The Secretary-General agreed that Mr. Debebe had a reasonable expectation of promotion and that he should be remunerated at the level of work that he performed, but did not agree that the tardy manner in which the Administration had reacted to ECA's improper practice justified a promotion for Mr. Debebe as to do so would violate the existing rules and policies. The Secretary-General decided to pay Mr. Debebe the equivalent of an SPA to the L-1 level from May 2004 for the duration of time in which he performed at the L-1 level.

8. Mr. Debebe appealed the decision not to promote him to the L-1 level to the former Administrative Tribunal, and his case was subsequently transferred to the Dispute Tribunal.

9. In Judgment No. UNDT/2012/019, the Dispute Tribunal rejected Mr. Debebe's request for promotion to the L-1 level, as he had not undergone competitive selection and the language in the resolutions of the General Assembly was clear in permitting staff movement from the General Service category to the Professional category, but not to the "L" category. However, the Dispute Tribunal concluded that the Secretary-General's acceptance of errors on the part of the ECA Administration in connection with reclassification, his acknowledgement of the delay in providing clarifications, and his payment of SPA did not "go far enough" as compensation for "the distress caused ... by the Respondent's admitted incompetence which created a legitimate expectation of promotion in [Mr. Debebe's] mind". The Dispute Tribunal ordered that Mr. Debebe be awarded four months' net base salary for such distress.

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