



Case No.: UNDT/GVA/2013/027

Judgment No.: UNDT/201 /013

Date: 29 January 2014

Introduction

1. The Applicant is a former staff member (employed during his last weeks of employment as an Assistant Secretary-General, -J+U./) who contests the decision, a/ not to grant him a "last come" leave entitlement, / not to grant him a leave-at-home grant entitlement of 20 (weeks on a basis of his eight weeks of service as a staff member and 24 (weeks for his ten weeks as J+U Assistant Secretary-General and, / not to award him full assignment grant entitlement upon his appointment as an Assistant Secretary-General.

Facts

2. The Applicant is employed as a Secretary-General in Geneva from 1 November 1994 to 31 December 2002. At the end of 2002, he (as appointed as Assistant Secretary-General "Asst. Sec. Gen.") effective 1 January 2003 until 31 December 2007. His appointment as an Assistant Secretary-General (as subsequent leave (for his) full weeks until 31 December 2012) the date of his employment.

3. On 27 August and 17 September 2002, the Applicant (note to the then Assistant Secretary-General for Human Resources Management, -A3G/459 : / (the respective assignment and leave-at-home grant entitlements) in) he (of the following) election of his Secretary-General as Secretary-General on 31 December 2002. On 29 December 2002, the Applicant (leave) was awarded a "last come" leave from the then A3G/459 : dated 2; 4 December 2002. In this regard (the) the Applicant stated that the following "Agenda" Affairs, -4/A./ at Headquarters had been consulted on the matter the Applicant (as informed that he (as not entitled to leave-at-home grant upon his appointment as a J+U Assistant Secretary-General) not to full assignment grant awardment.

4. Regarding the leave-at-home grant the A3G/459 : "leave" entitlement was fixed at the end of his Secretary-General (would be) date of (month) and return to Geneva to take up his functions as an Assistant Secretary-General. These entitlements did not amount to a leave-at-home. (the) the meaning of Annex 2 +V to the Staff Regulations in force at the time. Nonetheless, his leave-at-home grant entitlements (would be) determined (until)

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7. 4n 29 June 2010% fo""o (#ng an #n6u&#* '* t e A!!"#\$ant on #s ome "ea)e ent#t"emergs% uoe of&ete)2002 \$7(ma) 49 es&ou20847 (t) -o&ffestou)3-984 (a) 1.82.886(ot) 2106793684

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dated 1= No)em'ed 2012 of t e A3G/459 :. 5e &e#)ed a &e!"* on
7 : a&\$ 2013% '* (# \$: 1U u! e'd t e \$ontested de\$#s#on.

13. Bo""o (#ng t e su'm#ss#on of t e a!!"#Sat#on 'efo&e t #s T&#'una"% dated
7 June 2013% t e 9es!ondent f#"ed #s &e!"* on 12 Ju"* 2013.

14. ?* 4&de& No. ; ,GVA/2014/% #ssued on 14 Janua&* 2014% t e T&#'una"
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t e !a&t#es t e o!!o&tun#t* to su'm#t o'se&)at#ons t e&on '* 20 Janua&* 2014.
None of t e !a&t#es su'm#tted o'se&)at#ons.

Parties' submissions

1;. T e A!!"#SantAs !&n\$#!a" \$ontent#ons a&eC

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3tatute% #ns!e\$to&s a&e ent#t"ed to ome "ea)e on\$e e)e&* t(o *e&a&s of

19. In the case at hand, the A!!"\$ant did not submit a request for management evaluation before 11 Be'ua* 2013. The T&'una' funds that under a "loss" "e!e&s!eSt#)es" the A!!"\$ant missed the a!!"\$a' "e statuto* dead" nes.

20. The A!!"\$ant (as first informed of the decision not to!a* #m &e!at&at#on grant ("e' o'ding #s \$&ed#ts #n es&o (unt# " #s f#na" se!a&at#on% and to!a* #m assignment grant for on"* t(o mont s on 2; 4Sto'e& 2002. At the time, the A!!"\$ant admitted to contest the said decision under the former #nte&na" >ust#e s*stem. The first step for doing so, as!e& fo&me& staff &u'e 11.2 ten #n fo&Se% (as to request the)e (of the adm#n#st&at#)e decision '* t e 3e&eta&*8Gene&a" (#t #n t(o mont s of #ts not#f#Sat#on. 5o(e)e& t e A!!"\$ant did not formally \$a"enge the decision at the time it (as made. In fact, e e2!&ess"* states #n #s a!!"\$at#on that e made a Sons\$ous \$o#se to &a#se t e #ssue on"* at the end of #s se&)#e as J+U +ns!eSto&t at #s *e&s afte' 'eSom#ng a (a&e of t e &e'e)ant decision. <ate& on 7 and 10 4Sto'e& 2012% 59 : 3/UN4G me&e"* &e&stated the same decision. Iet#e)en t en% t e A!!"\$ant failed to request management evaluation under staff &u'e 11.2 ,\$/ t en #n fo&Se.

21. As to the decision to &e&eSt #s request for a "ast ome "ea)e" the A!!"\$ant (as informed thereof as ea"* as 29 June 2010. Again, e did not!&esent a time* management evaluation request. After e &a#sed ane(t e same &ue&* t e Adm#n#st&at#on &e#te&ated #ts !os#t#on on 13 June 2012% t &oug a deta#ed ema# sent '* t e 3en#o& 5uman Resou&ses 4ff#Se& 59 : 3% UN4G. A't oug e e2!&essed d#sag&reement #n #s ne2t \$o&&es!ondenSe% t e A!!"\$ant onSe mo&e fa#ed to submit a request for management evaluation. 5e #nstead (&ote to t e A3G/459 : as0#ng e& to &eSons#de& t e ea&'#e& deS#s#ons% &e"at#ng to #s &e!at&at#on and assignment grant.

22. The A!!"\$ant onh"

2; 4\$to 'e& 2002 \$on\$e&n#ng t e &e'o\$at#on and ass#gnment g&ant and on

system cannot be applied under Article 7,3/ of the Statute of the
Dispute Tribunal, UNDT Statute, due to a specific limitation on
its jurisdiction contained in Article 7,3/. ,Ajdini et al. 2011 UNAT
107D see also Costa 2010 UNAT 03= Banned 2011 UNAT 1=9
Muratore