Introduction

1.   B a!!"#$at#on f#"ed on 5 %e!tem&e' 2013(t)e A!!"#$ant $ontests t)e de$#s#on & t)e Un#ted Nat#ons *nte'nat#ona" C)#"d'en÷s ,me'gen$ -und ./UN*C,-01 to 'efuse)#s 'etu'n to UN*C,- fo""o2#ng)#s se$ondment to t)e 3o'"d 4eteo'o"og#$a" 5'gan#6at#on ./3450l. 7e $"a#ms t)at t)#s 'efusa" &'ea$)es t)e te'ms of)#s se$ondment(as def#ned #n t)e *nte'85'gan#6at#on Ag'eement one'n#ng T'ansfe'(%e$ondment o' 9oan of %taff among t)e 5'gan#6at#ons a!!"#ng t)e Un#ted Nat#ons Common % stem of %a"a'#es and A""o2an$es ./*nte'85'gan#6at#on Ag'eement01.

2.   As 'emed#es(t)e A!!"#$ant 'e:uests;

   a.   T)at t)e de$#s#on &e set as#de‹

   &.   =e#nstatement to a !e'manent !ost #n UN*C,- su#t#ng)#s $om!eten$#es and g'ade‹

   $.   A"te'nat#>e" (mate'#a" and mo'a" damages #n t)e amount of t2o ea's÷ net &ase sa"a' .

Facts

3.   T)e A!!"#$ant ?o#ned UN*C,- #n Ju" 19@A as a Com!ute' P'og'amme' at t)e 982 "e>e" #n Gene>a. %#n$e 1 Janua' 2000( )e 2o'Bed as =eg#ona" *nfo'mat#on Te$)no"og 5ff#$e'(at t)e P85 "e>e"(on a !e'manent a!!o#ntment(due to eC!#'e on 30 June 201@(name" t)e end of t)e mont) at 2)#$) t)e A!!"#$ant 2as to 'ea$))#s mandato' 'et#'ement age.

D.

t)at an fu't)e' !'o"ongat#on of t)e A!!"#$ant±s se

UN*C, -1 de$#de to eCtend #t fo' a fu't)e' !e'#od(2)#$))as &een
a"'ead done #n ou' $ase fo' an add#t#ona" !e'#od of t2o ea's.
, Ctens#ons of se$ondment &e ond fou' ea's a'e usua

nothing more than a termination of service without having to pay indemnities; and

g.   He suffered from procedural and substantive violations as his return right was infringed, and also from non-pecuniary damage [including severe stress regarding his professional career, his security in retirement, as well as his loss of job security as he no longer holds a permanent appointment.

24.   The Respondent's principal contentions are:

a.   UNICEF followed the applicable procedures on secondment in accordance with the Inter-Organization Agreement (CEB/2003/7 HR/R/A, dated 25 June 2003). This agreement provides for the rights of a staff member on secondment from UNICEF to another international organization. It defines secondment as the movement of a staff member from one organization to another for a fixed period, normally not exceeding two years, and indicates that the seconded staff member will retain his or her rights of employment in the releasing organization. These rights of employment mean that at the end of his se

to sta't to $onsu"t t)e >a$an$ &u""et#n to 2a'ds t)e "ast :ua'te' of
2010. U!on 'e$e#!t of ou' e8ma#" add'ess(2e 2#"" ensu'e t)at
>aan announ$ements a'e fo' 2a'ded to ou.

$.   P'#o' to 31 4 a'$) 2012(UN∗C, - sent out to a"" UN∗C, - and UN∗C, - aff#"#ated staff mem&e's /G"o&a" 4 essage B'oad$asts0 #nfo'm#ng t)em 2eeB" of a>a#"a&"e >aan#es. T)e A!!"#$ant 2as #n t)e ma#"#ng "#st of staff 2)o 'e$e#>ed #nfo'mat#on on UN∗C, - >aan#es. As of 31 4 a'$) 2012(D 7 =(UN∗C, -($eased su$) messages(ad>#s#ng #ts staff t)at #t 2 ou"d &e t)e#' 'es!ons#&#"#t to 'e>#e 2 t)e #nt'anet and e=e$'u#tment s stem fo' a>a#"a&"e >aan#es. As of 1 A!'#" 2012(>aan announ$ements

e.   T)e *nte'ᵹ5 'gan#6at#on Ag'eement does not !'o>#de fo' a '#g)t of 'etu'n fo' t)e se$onded staff mem&e' to a s!e$#f#$!ost u!on eC!#'at#on of t)e se$ondment. T)e A!!"#$ant 2as not se"e$ted to a

'e$e#>#ng o'gan#6at#on(&ut 2#"" 'eta#n)#s '#g)ts of em!"o ment #n
t)e 'e"eas#ng o'gan#6at#on. T)e !e'#od of se$ondment ma &e

3@.

staff mem&e's)o"d#ng !e'manent a!!o#ntments0 .em!)as#s added1. B t)#s !'o⊳#s#on(t)e A!!"#$ant(2)o)e"d a !e'manent a!!o#ntment( )ad a)#g) eC!e$tat#on to &e /'ea&so'&ed0. -u't)e'(#t #s #n "#ne 2#t) t)e ⊳e' !'ote$t#⊳e 'eg#me of !e'manent a!!o#ntments t)at su$) an a!!o#ntment 2#"" &e te'm#nated on" as a "ast 'eso't and su&?e$t to $onst'a#n#ng $ond#t#ons .$f. staff 'u"e 9.E 'ead #n $on?un$t#on 2#t) staff 'u"e 13.11.

DD.

DA. At an 'ate(e>en #f t)e te'm /'#g)ts of em!"o ment0 2e'e not to &e #nte'!'eted as an ent#t"ement to mandato' 'ea&so'!t#on(#t enta#"s(at t)e >e' "east(not "ess t)an 2)at #s due to a staff mem&e')o"d#ng a !e'manent a!!o#ntment #n $ase)#s !ost #s a&o"#s)ed .unde' staff 'egu"at#on 9.3l(t)at #s(t)e 5'gan#6at#on must maBe good fa#t) effo'ts to #dent#f a !ost fo' t)e staff mem&e'. *t 'esu"ts f'om t)e fa$ts of t)e $ase t)at UN*C‚ made no attem!t to f#nd a !os#t#on fo' t)e A!!"#$ant(&ut #n fa$t !"a$ed t)at &u'den ent#'e on)#m.

Signature of PA by the Applicant

50.

'es$#ss#on(as !e' a't. 10.5.&1 of t)e %tatute($onst#tutes an eC$e!t#on to t)e 'u"e and eC$e!t#ons(as a matte' of !'#n$#!"e(must &e #nte'!'eted na''o2" and st'#$t" .see Kasmani 2010ჴUNATჴ0111.

<u>4 ate'#a" damage</u>

55.   T)e A!!"$ant susta#ned no "oss of emo"uments. As a 'esu"t of)#s t'ansfe' to 3 4 5( )e $ont#nued 2o'B#ng(2#t)out an &'eaB(#n an o'gan#6at#on a!!" #ng t)e same sa"a' s$a"e(and)e 'ema#ned em!"o ed at t)e same g'ade and ste!. -u't)e'mo'e(t)e A!!"$ant ma#nta#ned a"")#s &enef#ts and ent#t"ements.

5E.   As fo' t)e #ndemn#t#es and/o' a""o2an$es t)at)e m#

a!!o#ntment &e not 'ene2ed afte' t)#s date 2ou"d &e)#g)" s!e$u"at#>e. T)e'efo'e(no mate'#a" damage $an &e de'#>ed f'om t)#s !e's!e$t#>e.

59. *n an $ase(t)e T'#&una" 2as #nfo'med t)at t)e A!!"#$ant)as s#n$e t)en $)anged em!"o e'(fun$t#ons and g'ade(as)e 2as se"e$ted to a D81 !os#t#on 2#t) t)e 5ff#$e of t)e Un#ted Nat#ons 7#g) Comm#ss#one' fo' =efugees. G#>en t)ese $#'$umstan$es(e>en #n t)e e>ent t)at t)e A!!"#$ant $ame to "ose)#s em!"o ment #n t)e futu'e(#n$"ud#ng due to a non8'ene2a"(t)e'e $ou"d &e no $ausa" "#nB 2#t) t)e $ontested de$#s#on.

4 o'a" damage

E0. T)e A!!"#$ant su&m#ts t)at UN*C, - de$#s#on $aused)#m non8!e$un#a' damage(#n$"ud#ng se>e'e st'ess 'ega'd#ng)#s !'ofess#ona" $a'ee' and)#s se$u'#t #n 'et#'ement(as 2e"" as a "oss of ?o& se$u'#t fo')e no "onge')o"ds a !e'manent a!!o#ntment.

E1.

Conclusion

E2.   *n >#e 2 of t)e fo'ego#ng(t)e T'#&una" D , C*D , %;

    a.   T)e $ontested de$#s#on( )a>#ng &een found un"a 2 fu"(#s 'es$#nded‹

    &.   T)e A ! ! "#$ant #s to &e !a#d U%D2(000 fo' mo'a" damage‹ and

    $.   A"" ot)e' !"eas a'e d#sm#ssed.

.Signed1

Judge T)omas 9aᗷe'

Dated t)#s 13[t)] da of Janua' 2015

, nte'ed #n t)e =eg#ste' on t)#s 13[t)] da of Janua' 2015