

Case No. UNDT/NY/2018/073

Judgment No.

Consideration

5. The Applicant states that she was hoping to get a different position even outside of the country to assist [her] with [her private] debts and [her] security situation. She states further that because of her current pending case before the national courts, she is unable to find other jobs in Haiti.

6. The Respondent responds that the Applicant had no legitimate expectation of renewal of her fixed-term appointment after its expiration.

7. The Respondent adds that the Applicant's post, along with all remaining MINUSTAH's posts, was abolished with the liquidation of MINUSTAH's budget. The Respondent clarifies that even if the newly created United Nations Mission for Justice Support in Haiti (MINUJUSTH) had had the authority to laterally transfer staff from MINUSTAH, which it did not have, it would have been unable to laterally transfer the Applicant as no team assistant posts exist in MINUJUSTH. In sum, the Administration could not place the Applicant in another post outside of the regular recruitment process.

8. Staff regulation 4.5(c) and staff rule 4.13(c) both provide that a fixed-term appointment does not carry any expectancy, legal or otherwise, of renewal.

9. In *Agha* 2019-UNAT-916, at paras. 16-17, the Appeals Tribunal rec4rue(it)-3u(late)4elx92 t-

Appeals Tribunal finally recalled that it is the applicant's burden to prove such factors played a role in the administrative decision.

10. In the present case, the record shows that the Applicant's fixed-term appointment was not extended beyond 30 June 2018 as the result of MINUSTAH's closure and liquidation.

11. Therefore, the reasons underlying the decision not to renew the Applicant's fixed-term appointment are lawful, namely the abolition of her post (see, for instance, *Lui* 2016-UNAT-659, para. 21), and corroborated by the evidence. The decision is therefore lawful.

12. The Tribunal further finds that as the Respondent rightly points out, the fact that the Applicant had incurred a personal debt, does not generate an obligation on her employer to provide her with an alternate position upon the closure of MINUSTAH.

13. In light of the above, the Tribunal finds that the decision not to renew the Applicant's fixed-term appointment beyond its expiration was lawful.

Conclusion

14. In light of the above, the application is rejected.

(Signed)

Judge Joelle Adda

Dated this 9th day of March 2020

Entered in the Register on this 9th day of March 2020

(Signed)

Nerea Suero Fontecha, Registrar