



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2023-UNAT-1407



Lars Ronved
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT

Before:	Judge Gao Xiaoli, Presiding Judge Kanwaldeep Sandhu Judge Nassib G. Ziadé
Case No.:	2023-1774
Date of Decision:	27 October 2023
Date of Publication:	21 December 2023
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Francisca Lagos Pola

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2023-UNAT

8. Between 20 April and 19 May 2022, UNSOS advertised a P-5 Senior Logistics Officer position under JO 178301. The Appellant applied and subsequently learned that their application was rejected, and that they would not be further considered.

9. On 12 May 2022, a Personnel Action (PA) form was issued retroactively extending the Appellant's temporary assignment and SPA from 1 June 2021 to 30 June 2022.

10. On 22 May 2022, the Appellant requested management evaluation challenging the contested decisions. In a response dated 1 July 2022, the Management Evaluation Unit (MEU) found the Appellant's request for management evaluation not receivable on grounds that the challenge against the SPA decision was time-barred and that there was no administrative decision with respect to the Appellant's ineligibility for JO 178301.

11. On 21 August 2022, the Appellant filed an application with the UNDT challenging the contested decisions to grant them an SPA instead of a temporary promotion and to find them

only a corollary to the extension of the assignment and did not create a new legal situation for the Appellant's appointment.

15. Turning to the Appellant's eligibility for JO 178301, the UNDT found that the Appellant's application was receivable in that regard, since there had been a decision to eliminate them from the selection exercise and this decision had been timely

Mr. Elmi's claim regarding equal pay for equal work does not apply to the present case and must be reexamined by the UNAT. Given that the granting of SPA in the case at bar violates Staff Rule 3.10 and the fact that an external candidate, if selected, would have received pay and pension at the Pc 0.071 Tw -41..315 0 Te s38.8 (r)2-4.7 ()/Sub0.17.S(i)-4.ob-.1 v)-9.2 (se)-3.4 (a)6.8 (cse)- (

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Did the UNDT err in finding the Appellant's application not receivable *ratione materiae* in relation to the "decision" to grant them SPA instead of a temporary promotion ?

29. The Appellant contested the decision to grant them SPA instead of a temporary promotion. Based on the document the Appellant submitted, we determine that they identified the contested decision being the retroactive extension of their SPA from 1 June 2021 to 30 June 2022, which they had been informed of on 26 April 2022.

30. Staff Rule 11.2 provides, in relevant part:

(a) A staff member wishing to formally contest an administrative decision alleging non-compliance with his or her contract of employment or terms of appointment, including all pertinent regulations and rules pursuant to staff regulation 11.1 (a), shall, as a first step, submit to the Secretary-General in writing a request for a management evaluation of the administrative decision.

...

(c) A request for a management evaluation shall not be receivable by the Secretary-General unless it is sent within 60 calendar days from the date onw 26.446 1.9 (ad)-85Tc -0.004 Tw -2

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Appellant should have known that they could not be offered a temporary promotion. Section 6.5 of ST/AI/2010/3 mentioned by the Appellant is not applicable to the present case since TJO 131330 is not a regular job opening.

42. Thirdly, concerning “Special post allowance”, Staff Rule 3.10 provides, in relevant part:

(a) Staff members shall be expected to assume temporarily, as a normal part of their customary work and without extra compensation, the duties and responsibilities of higher level posts.

(b) Without prejudice to the principle that promotion under staff rule 4.15 shall be the normal means of recognizing increased responsibilities and demonstrated ability, a staff member holding a fixed-term or continuing appointment who is called upon to assume the full duties and responsibilities of a post at a clearly recognizable higher level than his or her own for a temporary period exceeding three months may, in exceptional cases, be granted a non-pensionable special post allowance from the beginning of the fourth month of service at the higher level.

43. In the present case, the Appellant applied for a SPA through the CHR. The SPA was granted to the Appellant

that staff members apply for such temporary posts, in which case

incidentally the question of not granting a temporary promotion".¹³ In fact, the UNDT did give the answer to the question on merits.

50. Therefore, we agree with the UNDT's finding that there was no irregularity in retaining the Appellant at the P-3 level.

(ii i) Did the UNDT err in finding that the decision not to find the Appellant eligible for the P-5 position was lawful?

51. Section 6.1 of provides the eligibility requirements as below:¹⁴

6.1 Staff members holding a permanent, continuing, probationary or fixed-term appointment shall not be eligible to apply for positions more than one level higher than their personal grade. Staff members in the General Service and related categories holding a permanent, continuing or fixed-term appointment may apply for positions in the Field Service category at any level, irrespective of the grade they held in the General Service and related categories, provided they meet the requirements of the post.

52. According to this provision, the Appellant was ineligible to apply for positions more than one level higher than their personal grade. When the Appellant applied for JO 178301, a P-5 position, they were at the P-3 level, not at the P-4 level. Therefore, the Appellant was not eligible to apply for the P-5 position.

53. Consequently, we conclude that there was no irregularity in retaining the Appellant at the P-3 level and they were rightly considered non-eligible for JO 178301. The UNDT did not err in finding that the decision not to find the Appellant eligible for the P-5 position was lawful.

¹³ Impugned Judgment, para. 31.

¹⁴ Internal footnote omitted.

