



ET
TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2010-041

Balestrieri
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT

Before: Judge Rose Boyko, Presiding
J

THE

disciplinary action. However, in January 2

an Advisor in the Office for Africa of the Division of Technical Cooperation Coordination (DTCC/OA).

9. On 14 March 2008, Balestrieri wrote to the Chief, HRS, ITC expressing astonishment about the separation letter dated 27 February 2008 and her hope that the necessary arrangements would be made “to continue to use her services”. In April 2008, Balestrieri was offered support through an outplacement consultant. She did not take up the offer of assistance.

10. By letter dated 24 April 2008 to the Secretary-General, Balestrieri submitted a request for a review of the decision not to renew her appointment. On 28 April 2008, Balestrieri submitted a request for suspension of action to the Secretary of the Joint Appeals Board (JAB). The Deputy Secretary-General, after considering the report of the JAB,

T

harassment in the Coordination Unit of JITAP. Finally, Balestrieri contends that the UNDT erred in finding that she was not deprived of her right to submit a formal complaint of harassment.

20. Balestrieri requests that the Appeals Tribunal reverse the findings of the UNDT in Judgment No. 2009/019, order the rescission of the termination of her appointment, and order the payment of compensation equivalent to two years of her salary.

Secretary-General's Answer

21. The Secretary-General submits that the UNDT correctly concluded that “no countervailing circumstances may be established” in this case by finding that “(a) the decision not to renew [Balestrieri’s] appointment was a proper exercise of discretion; (b) [Balestrieri] did not have a legitimate expectancy of having her appointment renewed; (c) the [Secretary-General] was not bound to disclose the outcome of the investigation into working relations and possible harassment in the JITAP Coordination Unit; and (d) there is no evidence that [Balestrieri] was deprived of her right to file a formal complaint”. The Secretary-General submits that Balestrieri has not identified any errors that warrant a reversal of the aforementioned findings.

22. The Secretary-General requests the Appeals Tribunal to find that Balestrieri has not identified any errors that warrant a reversal of the UNDT’s findings, to affirm the UNDT’s rejection of Balestrieri’s application, and to dismiss the appeal in its entirety.

Considerations

23. Balestrieri’s FTA was terminated due to a lack of funding. Months prior to her termination, Balestrieri had alleged poor working relations while in this position. She became concerned that her complaints about her working conditions might have caused some retaliation by the Administration which reassigned her to her original post not too long before the funding was cut, with a view to ca

THE UNITED NATIONS APPEALS TRIBUNAL