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1. Yolla Kamel Kanbar (Ms. Kanbar) contested the decision of the Administration to reassign her from CHINCEU 2-31 (the Chinese Constructing Engineering Unit) to INDOBATT 7-1 (the Indonesian Battalion). The United Nations Dispute Tribunal (Dispute Tribunal or UNDT) rejected her application as without merit.¹ In June 2020, Ms. Kanbar filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal). For reasons set out below, we reject the appeal and affirm the UNDT Judgment.

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13. Ms. Kanbar alleges that she received threats from her First Reporting Officer (FRO) and from the OiC, warning her to keep her mouth shut. She contends that certain incidents that purportedly occurred prior to her redeployment were the actual reasons for her reassignment to the Indonesian Battalion.

14. She argues that she was trying to escape "from being harassed sexually and morally" and "she avoided to be in any place which could bring any damage to her" and her focus was to

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22. Next, as a preliminary matter, Ms. Kanbar's motion for leave to file additional pleadings is refused. Neither the Statute nor the Rules of this Tribunal provide for an appellant to file an additional pleading after the respondent has filed his or her answer. Article 31(1) of the Rules and Section II.A.3 of Practice Direction No. 1 of the Appeals Tribunal allow the Appeals Tribunal to grant a party's motion to file additional pleadings only if there are exceptional circumstances justifying the motion. Ms. Kanbar has not demonstrated any exceptional circumstances which would justify the Appeals Tribunal exercising its discretion to allow her to file additional pleadings, especially when the requested pleadings essentially consist in the rebuttal of the pleadings comprised in the Respondent's answer.

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29. Nevertheless, an administrative decision not to appoint, promote or transfer can be

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the Administration and applied correctly the right test that the latter had to pass, without substituting its own assessment for that of the Administration.

32. Firstly, following its review of the formal legality of the challenged decision, the UNDT thereafter examined its rationality, whereupon it reached the conclusion that due to budget constraints, a continual redeployment of language assistants was needed in order to meet the requirements of the military force. Ms. Kanbar's redeployment was part of a wider redeployment exercise within UNIFIL that also involved several

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whereas Ms. Kanbar has not made out her case about the improper motives. The mere allegations by Ms. Kanbar of her work harassment and sexual harassment by those mentioned in her complaint, as well as the impact and causal link of these alleged facts with the issuance of the challenged administrative decision, do not amount to proof of such motives. Last but not least, as rightly held by the UNDT:¹¹ “[t]o the extent the Applicant complains of having suffered harassment, including of a sexual nature, from other United Nations staff members, she remains to have in her disposal avenues provided under ST/SGB/2019/8 (Addressing discrimination, harassment, including sexual harassment, and abuse of authority). These allegations, however, have no relevance for the matter at hand.” We are satisfied with the above conclusions by the UNDT Judge.

41. Finally, the UNDT reviewed the legality of the contested reassignment decision even from the perspective of its compliance with the principle of proportionality, coming to the sound conclusion that Ms. Kanbar’s “additional commuting distance of 17 kilometers to INDOBATT does not present onerousness that would render the contested decision disproportionate. Commute and associated investment of time is commonplace. Undisputedly, many from among the language assistants have to spend time commuting to work.”¹²

42. It is obvious that Ms. Kanbar was not satisfied with the UNDT’s decision. She has failed, however, to demonstrate any error in the UNDT’s finding that the Administration’s decision to reassign her from the Chinese Constructing Engineering Unit to the Indonesian Battalion was not a valid exercise of its discretionary power. She similarly failed to show that the administrative action was tainted by improper motives or was otherwise unlawful. She merely voices her disagreement with the UNDT’s findings and resubmits her arguments to this Tribunal.

43. Ms. Kanbar has not met the burden of proof in demonstrating an error in the Impugned Judgment such as to warrant its reversal. The first instance Judge has broad discretion to determine the admissibility of evidence and the weight to accord evidence before him or her.

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Statute when there is an error of fact resulting in a manifestly unreasonable decision, which is not the case here. We hold that the UNDT gave careful and fair consideration to Ms. Kanbar's arguments regarding the legality of her reassignment.

44. For all these reasons, the Appeals Tribunal finds that the UNDT did not make errors of law and fact when it concluded that the reassignment of Ms. Kanbar was lawful.

45. Our conclusion that the UNDT did not make any errors of law or fact in dismissing Ms. Kanbar's challenge of the decision to reassign her precludes the Appeals

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47. The appeal is dismissed, and Judgment No. UNDT/2020/046 is affirmed.

Original and Authoritative Version: ! English

Dated this 19th day of March 2021.

Judge Raikos, Presiding
Athens, Greece

Judge Colgan
Auckland, New Zealand !

Judge Sandhu
Vancouver, Canada

Entered in the Register on this 7th day of April 2021 in New York, United States.

Weicheng Lin, Registrar