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UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D 'APPEL DES NATIONS UNIES

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Judgment No. 2022-UNAT-1230



Ratnanjali Venkata Koduru  
(Appellant )

v.

Secretary -General

Counsel for Appellant: Self-represented

Counsel for Respondent Amanda Stoltz

JUDGE DIMITRIOS RAIKOS , PRESIDING .

1. Before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal), Ms. Ratnanjali Venkata Koduru , a former staff member of the United Nations Mission for Justice Support in Haiti (MINUJUSTH), filed an application contesting her separation from service upon the expiry of her fixed-term contract. By Judgment No. UNDT/ 2021/022, the UNDT dismissed the application finding that the non -renewal decision was lawful, and that Ms. Koduru had failed to show that it was unduly motivated.
2. Ms. Koduru has appealed against the UNDT Judgment to the United Nations Appeals Tribunal (UNAT or Appeals Tribunal).
3. For the reasons set out below, we dismiss the appeal and affirm the UNDT Judgment.

#### Facts and Procedure

4. Ms. Koduru joined MINUJUSTH on a fixed -term appointment on 7 October 2017.
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16. In her appeal, Ms. Koduru makes a number of substantive claims. She for example claims that on 1 July 2015 she was unduly separated after she had been elected as Vice President of the Central Field Staff Union; that she was “abruptly separated from the mission” in September 2019 as a result of her refusal to approve “non-compliant sales cases under the pressure of the [Chief of Staff]”; that the rejection of a request to attend a training resulted in her “constructive dismissal”; that there had been delays in receiving salary payments and that her post was “reprofiled” and her functions reduced to 10 per cent of the original job description.

17. Ms. Koduru asks that the Appeals Tribunal vacate the UNDT Judgment in its entirety.

The Secretary -General's Answer

18. The UNDT considered the applicable law and the evidence and correctly concluded that the non-renewal decision was lawful. As identified by the UNDT, Staff Regulation 4.5(c) and Staff Rule 4.13(c) both provide that a fixed-term appoi15i(y)5.6 0.315 0 v2.6 ( t)1(o)-1.8 (poi)4.2596.033 0 Td (

21. Ms. Koduru has failed to identify any errors in the UNDT Judgment. Ms. Koduru merely disagrees with the outcome of the UNDT Judgment and does not demonstrate any reversible error on the part of the UNDT. An appeal from a UNDT judgment does not represent an opportunity to relitigate one's case. It is incumbent upon the appellant to identify the alleged defects in the Judgment and to state the grounds relied upon in asserting that the Judgment is defective. Ms. Koduru has not discharged this burden.

22. In her appeal, Ms. Koduru also introduces a number of additional claims that were not presented before the UNDT. However, issues that were not raised before the UNDT cannot be introduced for the first time on appeal. Specifically, Ms. Koduru argues that she was "abruptly separated from the mission" in September 2019 as a result of her refusal to approve "non-compliant sales cases under the pressure of the Chief of Staff". Ms. Koduru also alleges that the rejection of a request to attend a training resulted in her "constructive dismissal". Neither of these allegations can properly form any part of an appeal of the Judgment.

23. Moreover, even if these issues were properly before the UNAT, which they are not, they would nevertheless still fail to establish that the non-renewal decision was motivated by improper motives or that the UNDT erred in its conclusion that the non-renewal decision was lawful. These allegations are unsubstantiated and not supported by any evidence. Allegations

Considerations

26. It is well settled jurisprudence that an international organization necessarily has the power to restructure some or all of its departments or units, including the abolition of posts, the creation of new posts, and the redeployment of staff.<sup>1</sup> The Appeals Tribunal will not interfere with a genuine organizational restructuring even though it may have resulted in the loss of employment of staff. However, even in a restructuring exercise, like any other administrative decision, the Administration has the duty to act fairly, justly, and transparently in dealing with staff members.<sup>2</sup>

27. We further recall our jurisprudence that fixed -term appointments or appointments of limited duration carry no expectation of renewal or conversion to any other type of appointment.<sup>3</sup>

28. Even the renewal of the appointment of a staff member on successive appointments does not, in and of itself, give grounds for an expectancy of renewal, unless the Administration has made an express promise that gives the staff member an expectancy that his or her appointment will be extended, or there is a firm commitment to renewal revealed by the circumstances of the case<sup>4</sup> The jurisprudence requires this promise at least be in writing.<sup>5</sup>

29. As provided in Staff Regulation 4.5(c) and Staff Rule 4.13(c), respectively, “[a] fixed-term appointment does not carry any expectancy, legal or otherwise, of renewal or conversion, irrespective of the length of service”, and “[a] fixed-term appointment does not carry any expectancy, legal or otherwise, of renewal or conversion, irrespective of the length of service, except as provided under staff rule 4.14(b)”.

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<sup>1</sup> *Nouinou v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-902, para. 34; *Loeber v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-844, para. 18, citing *De Aguirre v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-705.

<sup>2</sup> *Nouinou*

30. Nevertheless, an administrative decision not to renew a fixed-term appointment can be challenged on the grounds that the Administration has not acted fairly, justly or transparently with the staff member or was motivated by bias, prejudice or improper motive.<sup>6</sup> The staff member has the burden of proving such factors played a role in the administrative decision.<sup>7</sup>

31. The Appeals Tribunal has consistently held that:<sup>8</sup>

When judging the validity of the Secretary-General's exercise of discretion in administrative matters, as in the case of a non-renewal decision, the Dispute Tribunal determines if the decision is legal, rational, procedurally correct, and proportionate. The UNDT can consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse. But it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to him. Nor is it the role of the Dispute Tribunal to consider the propriety of the Secretary-General's exercise of discretion.

32. We have reviewed the UNDT's decision and find it to be well-reasoned and fairly considered; we can find no error of law or fact in its decision. The UNDT properly applied the applicable law.

Specifically, the Appeals Tribunal found that the UNDT's decision was well-reasoned and fairly considered; we can find no error of law or fact in its decision. The UNDT properly applied the applicable law.

from 22 September 2019 and subsequently was separated from service on 7 October 2020 after the exhaustion of her sick leave entitlements. In these circumstances, the non-extension of the Appellant's fixed-term appointment was a legitimate exercise of the Administration's discretion. Therefore, we reject the Appellant's assertions to the contrary as without merit.

35. Finally, in her appeal, the Appellant makes a multitude of assertions, i.e., that she was abruptly separated from the mission in September 2019 as a result of her refusal to approve "non-compliant sales cases under the pressure of the Chief of Staff", that the rejection of a request to attend a training resulted in her "constructive dismissal", that there had been delays in her salary payments etc. However, these issues, in addition to being irrelevant to the matter on appeal, were not raised before the UNDT, and thus cannot be introduced for the first time on appeal for consideration by the Appeals Tribunal.<sup>9</sup> It is quite unreasonable for the Appellant to assert that the UNDT erred on questions of fact and law with respect to allegations which were not raised before the UNDT for its consideration and hence were not part of her case before the lower court. Therefore, we find that the appeal is not receivable in this regard.

36. Accordingly, the appeal fails.

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<sup>9</sup> *Abu Salah v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2019-UNAT-974, para. 47; *Ho v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-791, para. 37.



Judgment

37. The appeal is dismissed and Judgment No. UNDT/2021/022 is hereby affirmed.

Original and Authoritative Version: English

Dated this 18<sup>th</sup> day of March 2022.

*(Signed)*

Judge Raikos, Presiding