



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2010/014/
UNAT/1604
Judgment No.: UNDT/2010/161
Date: 9 September 2010
Original: English

Before: Judge Goolam Meeran
Registry: New York
Registrar: Morten Albert Michelsen, Officer-in-Charge

AHMED

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for applicant:

Salim Shaikh

Counsel for respondent:

Alan Gutman, ALS/OHRM, UN Secretariat

Background

1. On 11 April 2008, the applicant filed his statement of appeal before the former United Nations Administrative Tribunal against the decision not to renew his fixed-term appointment which had expired on 31 December 2007.

2. His principal complaint was that in arriving at the decision not to renew his fixed-term appointment the respondent failed to accord to him his due process rights in that there was a violation of former staff rule 110.1 (misconduct).

3. The remedy he sought was that the decision not to renew his fixed-term appointment be rescinded and that he be reinstated with the payment of all benefits.

Furthermore, he wished to be protected from acts of retaliation and, finally, he was seeking a monetary award of 36 months' pay.

5. The appeal was not considered by the former Administrative Tribunal and

the performance appraisal system and unfairly used as an instrument to justify the non-renewal of his contract. There is also compelling evidence in the form of the decision of the rebuttal panel, as discussed below.

The rebuttal panel

15. In accordance with sect. 15 of ST/AI/2002/3, a rebuttal panel was constituted to review the performance ratings given to the applicant in the cycles 2003-2004 and 2004-2005. After reviewing the documentary evidence and hearing from one of the directors concerned, the rebuttal panel concluded that the applicant had been given appropriate encouragement to improve. The panel commented unfavourably on the applicant in relation to various conduct-related matters and observed that the unsatisfactory pattern of conduct appeared to repeat itself and was evident in both the applicant's rebuttal documents and his interview. They concluded that the ratings for the two PAS cycles should remain unchanged. Sect. 15.4 of ST/AI/2002/3 provides that "the rating resulting from an appraisal that has not been rebutted, or from the rebuttal process, shall not be subject to further appeal".

Retaliation or other extraneous or improper factors

16. One of the applicant's principal complaints was that the non-renewal of his fixed-term appointment was an act of retaliation because he reported to the United Nations Information Centres (UNIC) headquarters allegations of financial fraud in the UNIC Islamabad office. These allegations

Tribunal to carry out its own investigation into the allegations of fraud. The Tribunal's task is to see whether there was a proper investigation into the allegations and whether the findings were reasonably based given the evidence before the investigating panel. The Tribunal finds that there was a proper investigation into the allegations made by the applicant. Furthermore, the fact that the applicant had made such allegations was unrelated to the decision not to renew his fixed-term appointment. There being no casual link between the two, the applicant's allegations of retaliation are dismissed.

17.

20. The Tribunal does not find any basis upon which to support the applicant's allegation that the provisions of former staff rule 110.1 were violated. In particular,