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Introduction

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reclassification of the ~~4~~ post she encumbered to the ~~5~~ level in the 2014 budget.

6. In January 2014, the Applicant participated, as the incumbent, in the reclassification exercise for post number 61573 from ~~4~~ to P5.

7. On 9 April 2014, while updating her profile on the Field Support Suite (FSS) database, the Applicant noticed a certain entry in relation to the post she was encumbering. The entry indicated that “FSS Authorization Unit” for the Conduct and Discipline post was the Security Section. The Applicant immediately sought clarification on the issue.

8. On 10 April 2014 the Applicant was informed by a Human Resources Officer that effective 1 January 2014, her appointment was being charged against a borrowed post from the UNAMA Security Section for administrative purposes only.

9. On 10 April 2014 the UNAMA Chief of Staff (COS), Dominique Eliaers Wouters informed the Applicant as follows:

The result of the reclassification decision was that the previous UNAMA P-4 CDO function ceased to exist, as the post was reclassified upwards. There is no longer a dedicated UNAMA specific CDO; there is only a ~~5~~ Regional CDO, just as there is only a Regional CDT (rather than separate UNAMA and UNAMI CDTs). Despite the General Assembly’s decision to abolish the UNAMA-specific CDO role, you remain on your current appointment, in accordance with the Dispute Tribunal’s Order 264 (NBI/2013), which UNAMA has and will continue to comply with.

10. On 8 May 2014, the Applicant requested for management evaluation of the decisions which she described as follows

Removal from post number 61573 thereby removing her as the dedicated CDO for UNAMA;

Non-recognition of staff member as the most senior only CDO in situ at the KJSO therefore denying participation to the CDU/CDT workshop held at UNHQ from 30 April to 2 May.

11. The Applicant filed the present Application on 13 May 2014. The Respondent filed a Reply on 15 May 2014.

12. The Tribunal heard the case on 19 May 2014.

Applicant's submissions

13. The Applicant's case may be summarized as follows:

Prima facie unlawfulness

a. The UNAMA Administration has acted in breach of ST/AI/1998/9 (System for the classification of posts) and there is no Staff Rule or Regulation stating that the incumbent of a post reclassified to a higher grade should be removed/transferred/reassigned to another post or a borrowed post pending recruitment for that upgraded post.

b. The UNAMA CCPO, Niramol Jirapokakul, had no authority to remove her from post number 61573 and therefore abused her authority.

c. The UNAMA COS has no authority to remove her as the CDO and has abused her authority.

d. She has been belittled, insulted, maligned and undermined in her profession, function and appointment as the CDO by the COS.

Urgency

e. She intends to sign her contract renewal before 22 June 2014 and would like the relevant forms and databases to reflect that she continues to encumber post number 61573.

Irreparable damage

f. She will lose opportunity

g. She has been placed on a “black list” because of filing requests for management evaluation and for arguing her case before the Tribunal.

h. She has suffered damage to her professional reputation and career as well as moral and emotional injuries and physical stress. The decisions have had a negative impact on her social status and have unnecessarily damaged her relations with her colleagues.

Respondent's submissions

14. The Respondent submits that the decision to finance the Applicant's position from post number 77591 instead of post number 61573 has already been implemented and hence cannot be suspended.

15. The Respondent's case

c. Post n

f. Although the Applicant's request to attend a workshop in New York was not approved, the reason for the decision was explained to her. This decision had nothing to do with the Applicant's CDO functions in relation to UNAMA and UNMOGIP; the Under Secretary General for Peacekeeping specifically requested the participation of the most senior CDO. The Applicant was not, following the restructuring of the Conduct and Discipline Team.

Urgency

g. The change in the financing of the Applicant's position was implemented on 1 January 2014. Given that this decision was taken four months ago, the Applicant has not established a situation of particular urgency.

Irreparable damage

17. The Applicant submitted that the contested decisions were unlawful because: the UNAMA Administration acted in breach of ST/AI/1998/9, the CCPO had no authority to remove her from post number 61573; and that the COS has no authority to remove her as the CDO. The Respondent's submissions on the issue of unlawfulness were that staff members have no right in their terms of appointment to be appointed against any specific post and that the Applicant's CDO functions remained unchanged.

18. It is not in contention that the Applicant's post has been reclassified. What is at issue in this case is the question of rights enjoyed by a staff member encumbering a reclassified post and whether those rights have been violated.

19. Section 4.2 and 4.3 of ST/AI/1998/9 are relevant in determining the issue. They provide as follows:

4.2 The classification of a post shall not negatively affect

