



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/010

Judgment No.: UNDT/2023/017

Date: 21 March 2023

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

PASCAL

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Yehuda Goor, AAS/ALD/OHR, UN Secretariat

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limited to determining whether the exercise of such discretion is legal, rational, reasonable and procedurally correct to avoid unfairness, unlawfulness or arbitrariness (see *Abusondous* 2018-UNAT-812, para. 12). In this regard, the Dispute Tribunal can “consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or

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not rebut his performance evaluations for the 2017-2018, 2019-2020 and 2020-2021 cycles.

36. It is clear that the Applicant's FRO and Second Reporting Officer ("SRO"), as well as his Additional Supervisors, provided him with performance guidance and feedback. The evidence shows that the Administration assisted the Applicant to improve his performance by calling his attention to performance shortcomings, undertaking performance discussions, providing advice, and coaching on performance issues in line with secs. 10.1 and 10.2 of STS -25.40k5.40k5.40k5.40k5.40k5.4-1 .

4. The proposal for termination, together with supporting evidence, **shall be submitted in writing to the joint review body** prior to its consideration of the case. A copy of this material shall, at the same time, be provided to the staff member concerned.

5. The joint review body shall base its deliberations on the proposal placed before it and shall advise the Secretary-General **whether or w init**§1 (TJ (f,wpMC /dJE

the requirements under secs. 10.3 and 10.4 of ST/AI/2010/5 for proposing the termination of the Applicant's appointment were met.

41. The evidence shows that the CRC was provided with the documentation submitted by the Director, BTAD/DMSPC including the Applicant's performance documents, his performance improvement plan, and e-mail correspondence. The CRC afforded the Applicant a reasonable opportunity to comment on the proposal for termination in line with paras. 4 and 7 of ST/AI/222.

42. The Tribunal notes that the CRC interviewed the Applicant as well as his FRO and his two Additional Supervisors for the 2019-2020 and 2020-2021 performance cycles. It also interviewed the Applicant's FRO for the performance cycles covering the periods from 2013-2014 to 2018-2019.

43. Following the interviews, the CRC met to deliberate on the proposal. In its deliberation, the CRC noted "a lack of productivity in the Applicant's performance" and considered that due process had been followed in accordance with ST/AI/2010/5 with regards to "identifying and addressing performance shortcomings and unsatisfactory service".

44. The CRC unanimously concluded that there was sufficient ground for the termination of the Applicant's permanent appointment for unsatisfactory service and recommended the termination of his appointment to the Secretary-General.

45. The USG/DMSPC, in the exercise of her delegated authority, accepted the CRC's recommendation and issued the Applicant a termination notice which provides, *inter alia*, that the Applicant would receive termination indemnity for the maximum amount permitted pursuant to Annex III (c) of the Staff Rules and compensation in lieu of notice pursuant to staff rules 13.1(a) and 9.7(d).

46. In relation to the procedure to terminate his appointment, the Applicant contends that "the term and mandate of the Committee constituted to review the ... termination of his permanent employment have expired and as a redr

1 January 2021 to 31 December 2022. Therefore, since the Applicant's proposal for termination was reviewed by the CRC during September and October 2021, the Applicant's claim is unsubstantiated.

47. With respect to the WithATJ0N()JTJ0 T (tl(b)1le(m)2.62)7 (tDC 62)7 (e)1TJ0 Tesa5 (to)]1 Tc -0