



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2011/068

Judgment No.: UNDT/2012/027

Date: 16 February 2012

English

Original: French

Before: Judge Jean-François Cousin

Registry: Geneva

Registrar: Anne Coutin, Officer-in-Charge

SERVAS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

Translated from French

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New York determined on 11 February 2011 that an attempt to settle the case informally would be appropriate. The case was thus referred to the United Nations Ombudsman and Mediation Services.

8. On 5 April 2011, the Applicant signed her PAS for the period from 1 June through 31 December 2010, which gave her title as G-5 Programme Assistant.

9. On 29 June 2011, when the mediation was concluded, the parties signed a

condition of the agreement had to do with her retroactive reappointment at the P-2 level, she was entitled to all the benefits that accompany that type of appointment. She thus had a legitimate expectation that her title would be retroactively corrected in all official documents, including her PAS, even in the absence of an explicit stipulation thereto in the agreement;

b. In fact, her original PAS bore the title of P-2 Associate Programme Adviser when her work plan was set in June 2010 and during the mid-point review in September 2010. It was not until April 2011 that the Administration deleted that reference with correction fluid and, using a typewriter, inserted the title of G-5 Programme Assistant;

c. By allowing contradictory information regarding her title and level to remain in her administrative file and her PAS, ITC deliberately undermined her reputation and her chances of appointment to a post at the Professional level within the United Nations;

d. While ITC did in the end pay the difference between the salary she received at the G-5 level and that which she should have received at the P-2 level, the bad faith and negligence of ITC in meeting this requirement resulted in damages that entitle her to redress. ITC cannot claim that the delay in payment and the repeated calculation errors to her detriment that occurred before payment was made were purely the result of technical difficulties. There was an evident desire to delay payment in order to reduce the Organization's financial liability;

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f. Article 1(a) of the settlement agreement of 29 June 2011 states: “[A]ll claims, demands, proceedings and/or appeals, except investigations, that the parties have against each other together form the subject matter of this mediation.” Article 2 further provides that:

29.

Entered in the Register on this th16 day of February 2012

(Signed)

Anne Coutin, Officer-in-Charge, Geneva Registry