



Before:

Registry:

Registrar:

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JUDGMENT

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Counsel for Applicant:

Counsel for Respondent:



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t(e !DP Gende+ team' %n !+uges' !e\$g%um. T(ese #osts 8e-e tem#o+a+" assignments.

15. ;n 1 <a+&( 2014' t(e A##\$%&ant \$eft (e+ #ost.

16. !" \$ette+ dated 1 <a+&( 2014' t(e 5tate 5e&+eta+" <%n%st+" of )o+e%gn Affa%+s' No+8a"" t(an:ed t(e A##\$%&ant fo+ (e+ &\$ose &oo#e+at%ion and +e\$ent\$ess &omm%tment to st+engt(en t(e +e\$e,an&e of ;GC. 6e also st+essed t(at Ot(an:s to Ft(e A##\$%&ant'sG effo+ts' Ft(e"G no8 (a,e so\$d +esu\$ts and e=#e+%en&es to \*u\$d on as UNDP and t(e <%n%st+" of )o+e%gn Affa%+s (a,e +ene8ed Ft(e+%G &omm%tment to &ont%nu%ng t(e #a+tnes(%# on t(e UNDP ;s\$o Go,e+nan&e Cent+e1 .

1>. !" \$ette+ of 1 <a+&( 2014' ; 6 -/! ; < %nfo+med t(e A##\$%&ant t(at a fu\$\$" funded tem#o+a+" assignment (ad \*een %dent%f%ed fo+ (e+ as 5en%o+ Ad,%so+ to t(e B=e&ut%,e Coo+d%nato+ and De#ut" B=e&ut%,e Coo+d%nato+ of t(e United Nations Vo\$untee+s /0UNV12 #+og+amme %n !onn. T(e A##\$%&ant a&&e#ted t(at #ost' and too: u# t(e one4"ea+ tem#o+a+" assignment on A#+%\$ 2014. T(e \$ette+ noted t(at t(e assignment 8as fo+ a def%ned #e+%od of one "ea+' t(at %t 8%\$\$ sta+t on 1 A#+%\$ 2014 and 8%\$\$ e=#%+e on 1 <a+&( 2015 and t(e+e 8%\$\$ \*e no #oss%\*%\$%t" of e=tension. @t fu+t(e+ stated t(at OF%Gn t(e e,ent t



positions. The email further stressed that staff should be able to secure a position in the event of the suspension of the relevant staff member. The email also stated that the suspension of the UN staff members and the UNDP Personnel Assignment Process and Processes should be a priority during the suspension.

2. On 8 June 2014, the Applicant filed a complaint with the UNDP Office of Audit and Investigations (OAI) regarding the assessment and use of staff on

the email of 25 July 2014. That information too: #a&e on 28 July 2014. The A##\$&ant 8as offered a one4da" extension of the deadline for a##\$&ation.

23. !" email of 1 July 2014' the A##\$&ant info+med <+. Candest(at ast(oug( t(e+ 8e+e a num\*e+ of #os#tions %n t(e Jo\* )a%+ t(at suited (e+ #+of%se' s(e (ad de&ided not to #a+t%&#ate %n %t' s%#e s(e &ou\$ not \*e e=#e&ted' %f se&ted' to sta+t %n a ne 8 #ost so soon afte+ (e+ e&ent e\$o&ation. @n t(at email\$' t(e A##\$&ant also soug(t &Sa+f%&ation as to 8(et(e+ (e+ &u++ent status 8as e\$ated to t(e on4go%ng st+u&tu+a\$ &(anges.

0. !" email of 6 August 2014' entitled 0-BH Pa+t%&#at%on on t(e st+u&tu+a\$





3. !" \$ette+ of 3 A#+%\$ 2015' t(e A##\$%&ant %nfo+med t(e Ass%stant Adm%st+ato+ and D%+e&to+' ! ; < ' t(at s(e (ad o#ted to se+, e t8o out of t(e t(+ee mont(s of te+m%nation not%&e and +e&e%, e &om#ensation %n \$%eu of t(e +ema%n%ng mont( of not%&e #e+%od.

40. ;n 13 <a" 2015' t(e Asso&%ate Adm%st+ato+' UNDP' +es#onded to t(e A##\$%&ant?s +e7uest fo+ management e,a\$uation.

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Case No. UNDT/GVA/2015/148

Judgment No. UNDT/2016/102

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f. The UNB note stated that staff members in the UNB 'e, en  
if engaged in a formal assignment to the UNB must  
continue sea and working for a regular assignment. Accordingly (e+ argument that  
upon completion of (e+ assignment in Bonn since 8as not reassigned to the  
UNB for a number of years (out me+te

g. Since 8as repeated information that since 8as affected " the student's  
(ange. ; n 21 <a" 2014' since 8as further information that if she failed to  
secure a host " the continuation of the student's (ange #o&ess' since 8as  
(a, e to \*e separated. The fact that since 8as affected " the student's (ange  
8as repeated on 21 July 2014, 28 July and 6 August 2014. Since 8as also  
information during the session of 28 July 2014 that if she did  
not find another host at the end of the formal assignment ( UNV' since  
8as separated from her, %&E

(. On (e email of 1 July 2014' the Applicant repeated that since 8as  
not a " for , and yes in the (Jo\* )a+s. The 8as (e+ #e+sona\$ (o&e. At  
the time o, e+ 100 staff members (olding f=ed4te+m and #e+manent  
appointments 8e+ affected " the student's (ange. It is surprising that the  
Applicant (ose not to #a+te&#ate in the (Jo\* )a+s' although she  
noted that (a, %ng +e, %e 8ed the , and yes' since :ne 8 that since 8as separate for  
a number of the hosts

%. The Applicant 8as given a sea and ( #e+od 8(en the host of D+e&to+'  
; GC' 8as assigned and she obtained a one-year formal appointment  
( UNV. At the end of a formal assignment' no

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t(ose ad,e-tised %n t(e Jo\* )a%. @f' as s(e &\$a%ms' t(e A##\$%&ant 8as not

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a. The decision to abolish the post encumbered by the Applicant is a direct consequence of a structural review

\*. The Applicant's obligations under staff rules 3.6/e2 and 1.1/d28 (on termination of the Applicant's permanent appointment)

&. The Applicant is entitled to an "earned" amounting from the termination of the appointment

Was the decision to abolish the post encumbered by the Applicant a direct consequence of a structural review

54. This Judgment is not intended to be an examination of the sufficiency or otherwise of the staff rules and the manner in which they have been applied in the present case. This matter has been dealt with in Judgment EI-Kholy UNDT/2016/028. The Tribunal finds that the post of Director, GC/D412, DGG, is a permanent position at the time it was abolished as a direct consequence of the restructuring exercise. A termination of a contract of employment is a reason for the payment of the outstanding salary, provided that the employee has performed his duties and obligations towards the staff member in accordance with 3.6.6.523(f) - 8.44 T d D ( ) 529 (f) 2.57 62 ( ) 250 ] TJD - 261.15 8 92 (+)

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5>. Staff +u\$e 3.6/f2 \$%m%ts t(e Adm%n%st+at%on?s dut" 8%t( +es#e&t to staff mem\*e+s %n t(e Gene+a\$ 5e+, %&e &atego+" to &onside+at%on of a, a%\$a\*\$e #osts at t(e%+ dut" stat%on and 8%t(%n t(e%+ de#a+ment. 5u&( \$%m%tat%on does not' (o8e, e+' a##\$" to staff mem\*e+s %n t(e P+ofess%ona\$ &atego+"'' \$%:e t(e A##\$%&ant.

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53. A +e, %e8 of t(e &ase \$a8 %nd%&ates t(at t(e+e (as to date \*een a ,e+" \$%m%ted o##o+un%t" fo+ UNAT to +u\$e on t(e #+o#e+ %nte+#+etation to \*e g%, en to t(e o\*\$%gation u#on t(e Adm%n%st+at%on to use good fait( effo+ts to find dis#\$a&d staff mem\*e+s a\$te+nat%, e em#o"ment #a+t%&u\$a+\$"' t(ose on #e+manent a##o%ntments'



and 8 (" t(at 8as so /Hussain Judgment No. 1403 /20082E /oares Judgment No. 310 /13382E Carson Judgment No. 85 /136222.

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T(e T+%\*una\$?s &ase \$a8 (as &ons%stent\$" u#(e\$d t(e #+%n&%#%e t(at an %nte+nationa\$ o+gan%Aat%on ma" not te+m%inate t(e a##O%ntment of a staff mem\*e+ 8 (ose #ost (as \*een a\*o\$%s(ed' at \$east %f (e o+ s(e (o\$ds an a##o%ntment of %ndete+m%inate du+at%on' 8%(out f%+st ta:%ng su%ta\*\$e ste#s to f%nd (%m o+ (e+ a\$te+nat%,e em#%o"ment /see' fo+ e=am#%e' Judgment 263' unde+ 2' 1>45' unde+ >' 220>' unde+ 3' o+ 2 8' unde+ 102. As a +esult' 8(en an o+gan%sat%on (as to a\*o\$%( a #ost (e\$d \*" a staff mem\*e+ 8(o' \$%:e t(e &om#%ainant

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Reasonable for the respondent to set up the office. This is a means for assisting the Administration in giving effect to the obligation to give the 'full and reasonable' consideration to securing the continuing service of staff members " 8a" of the Convention. It is not one element of a process " 8 (c) (i) Administration is required to discharge its obligation to discharge staff members.



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and the Commission. The Commission's findings are based on the evidence submitted by the parties and the Commission's own investigation.

80. The Commission's findings are based on the evidence submitted by the parties and the Commission's own investigation.

81. The Commission's findings are based on the evidence submitted by the parties and the Commission's own investigation.

82. The Commission's findings are based on the evidence submitted by the parties and the Commission's own investigation.









31. 6a, %ng &on&\$uded t(at t(e de&is%on to te+minate t(e em#o"ment of t(e

obligations under Staff Rules 3.6(e) and 1.1(d). The Tribunal has awarded the sum of USD 2'000 as moral damages.

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