



Before:

Registry:

Registrar:

JUDGMENT

Counsel for Applicant:

Counsel for Respondent:

Introduction

1. The Applicant filed on 22 June 2015 the Applicant contests the decision of 12 February 2015 to terminate the permanent assignment and to separate the Applicant from service on 30 June 2015.
2. The Respondent filed (his appeal) on 24 August 2015.

Facts

The Applicant joined the United Nations Development Programme (UNDP) in 1988 as a Professional Officer, P-4, in the region of Africa at the UNDP Headquarters in New York. After various assignments in several duty stations (he was promoted to the P-5 level on 15 August 2008 (D/2008/436) - 0.9 (u) - 0.9 60221 (s) -

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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 Commission 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 Commission found a violation of the UNDP Code of Audit and Investigations /0; Article 12 regarding assessment and use of authority on

the email of 25 July 2014. The respondent also stated on 28 July 2014. The
Applicant has offered a one-day extension of the deadline for a submission.

23. The email of 1 July 2014' the Applicant informed that. The respondent (at a stage of
the proceedings a number of positions in the Joint) and that the respondent (the
deceased) decided not to participate in the proceedings and would not be represented by
in a new host so soon after the respondent's death. On the email of the Applicant also
sought clarification as to the respondent's current status as related to the ongoing
proceedings.

0. The email of 6 August 2014' entitled 0-BH Participation on the respondent's

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Case No. UNDT/GVA/2015/148

Judgment No. UNDT/2016/102

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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 Applicant)

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 to the Applicant. This matter (as seen dealt with in Judgment EI-Kholy UNDT/2016/028. The Tribunal finds that the post of Director, GC/D412' DGG' and the Applicant at the material time 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 Applicant has fulfilled 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 (+) 2

the above, the Tribunal finds that the respondent organization has not demonstrated that it has used the UNDP.

57. Staff under 3.6/f2 submits that the Administration's duty is to ensure that staff members in the Geneva office, and in other offices, are not subject to discrimination on the basis of their status and that the Administration does not have a duty to staff members in the Professional category of the staff.

58. The Tribunal finds that the respondent organization has not demonstrated that it has used 3.6/e2, 3.6/g2 and 1.1/d2.

53. As a result of the above, the Tribunal finds that the respondent organization has not demonstrated that it has used UNAT to ensure that the respondent organization is not subject to discrimination on the basis of its status to use good faith efforts to find and hire staff members at the respondent organization's permanent assignments.

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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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2014. It submits its conclusion to finding that the Panel has in fact a jurisdiction to terminate the Assignment of the Respondent's permanent assignment. This jurisdiction is established by the Panel's previous decision in *UNV v. [Redacted]* (UNDT/2011/102) where the Panel found that the Respondent's permanent assignment was not terminated by the Panel's decision in *UNV v. [Redacted]* (UNDT/2010/102). The Panel also found that the Respondent's permanent assignment was not terminated by the Panel's decision in *UNV v. [Redacted]* (UNDT/2011/102). The Panel's decision in *UNV v. [Redacted]* (UNDT/2011/102) is not binding on the Panel in the present case because the Respondent's permanent assignment was not terminated by the Panel's decision in *UNV v. [Redacted]* (UNDT/2011/102).

85. The same rationale applies to an alleged violation of the Respondent's right to equal treatment. The Respondent claims that the Panel's decision in *UNV v. [Redacted]* (UNDT/2011/102) is not binding on the Panel in the present case because the Respondent's permanent assignment was not terminated by the Panel's decision in *UNV v. [Redacted]* (UNDT/2011/102). The Panel's decision in *UNV v. [Redacted]* (UNDT/2011/102) is not binding on the Panel in the present case because the Respondent's permanent assignment was not terminated by the Panel's decision in *UNV v. [Redacted]* (UNDT/2011/102).

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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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