



Case No. 2011-255



Counsel for Appellant: Self-represented

Counsel for Respondent: John Stompor/Wambui Mwangi

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5. Following a restructuring of TPB in April 2008, his functional title was changed to that of Chief of the Counter-Terrorism Legal Services Section I. In this capacity, he was the First Reporting Officer of five staff members.
6. In the fall of 2009, the Chief of TPB and the Officer-in-Charge of DTA announced to TPB staff that the Branch was to be reorganized.
7. On 1 October 2009, seven out of around 45 TPB staff members were notified of the decision not to renew their appointments beyond their expiry.
8. On 8 December 2009, the Applicant was informed orally by the Chief of TPB and the Officer-in-Charge of DTA that his post would be abolished and that he would be



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noted that Mr. Gehr had chosen to submit a separate application regarding the classification process, and that it would therefore not make any ruling on this issue in the case at bar. Similarly, the UNDT found that Mr. Gehr's allegations of harassment and discrimination were unrelated to the decision to restructure the TPB and to reassign him, the only matter properly before the UNDT. The UNDT therefore rejected Mr. Gehr's application.

9. Mr. Gehr appeals the UNDT Judgment. On 24 June 2012, and upon Mr. Gehr's request, the Appeals Tribunal held an oral hearing in Geneva, Switzerland. Both parties attended the hearing via video-link.

### Submissions

#### Mr. Gehr's Appeal

10. Mr. Gehr submits that the UNDT erred in finding that the restructuring of the TPB was a valid exercise of the Secretary-General's discretion; and that he had been validly reassigned as the Senior Legal Adviser of the TPB.

11. Mr. Gehr submits that the UNDT erred in concluding that Mr. Gehr's post was not abolished; and in failing to recognize that prior to his reassignment he had been informed that his post would be abolished.

12. Mr. Gehr asserts that the UNDT exceeded its competence in finding that the draft terms of reference of the position of Senior Legal Officer were sufficiently precise; that the UNDT did not properly construe the notion of a right to be heard in relation to the Organization's decision to reassign him; and that the UNDT failed to address his assertion that his supervisors lacked good faith during the restructuring process. Mr. Gehr also asserts that the UNDT erred in fact in finding that Mr. Gehr admitted that he felt competent and disposed to take up fundraising activities.

13. Mr. Gehr submits that the UNDT failed to exercise jurisdiction vested in it. In particular, he submits that the UNDT failed to address several of his allegations, including "abuse of authority, bad faith, ill will, unfair dealings, humiliation by his supervisors", "lack of respect for the dignity of the Appellant", the fact that "the ... contested administrative decision ha[d] been taken out of favouritism for a third party", "failure by the Administration to guarantee a healthy environment", and "lack of integrity of the management evaluation process". The UNDT further erred in not addressing Mr. Gehr's allegation that his reassignment was procedurally flawed because the position was filled without advertisement or open competition.

14. Mr. Gehr submits that the UNDT made several errors in procedure warranting a reversal of its Judgment. He submits that the UNDT erred in deciding to address his allegations regarding the classification process and harassment under other case numbers.

15.



assertion, the UNDT did recognize in paragraph 8 of its Judgment that Mr. Gehr had initially been informed that the Organization intended to abolish his budgetary post.

21. The Secretary-General submits that the Appellant has not demonstrated that the UNDT failed to exercise jurisdiction vested in it such as to warrant a reversal of its Judgment. Contrary to Mr. Gehr's assertion, the UNDT did address his allegations regarding "abuse of authority, bad





Judge may limit oral evidence as he or she deems fit. Mr. Gehr has failed to substantiate the allegation of bias against the Judge in this regard. The appeal on this ground is also dismissed.

37. Finally, Mr. Gehr has failed to demonstrate any error in the UNDT's finding that the Administration's decision to reassign him resulted from a restructuring of the office and was not tainted. He merely voices his disagreement with the UNDT's findings and resubmits his submissions before the UNDT. He has not met the burden of proof of demonstrating an error in the Judgment.<sup>5</sup>

**Judgment**

38. The appeal is dismissed in its entirety.

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<sup>5</sup> *Crichlow v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-035.

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Judgment No. 2012-UNAT-236