



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Andreyev

(Respondent/Applicant)

v.

Secretary-General of the United Nations

(Appellant/Respondent)

JUDGMENT



JUDGE DEBORAH THOMAS -FELIX , PRESIDING .

1. The United Nations Appeals Tribunal (Appeals

... On 26 June 2011, IC No. 327/2011 was issued by the UNMIS [Director of Mission Support (DMS)] announcing the formation of a comparative review panel to review the international posts in UNMIS where the number of current staff in UNMIS was in excess of the proposed posts in the new mission. The IC also informed staff that the profiles of some of the existing posts may change and that these would be filled through the regular selection process.

... Following from this, IC No. 334/2011 was issued on 30 June 2011 updating UNMIS Staff on the impending draw-down process. Through this IC:

a. Staff members with fixed-term appointments that were to expire shortly were advised that their appointments would be extended for a further period of one year. Where a staff member's function would no longer be required by the mission prior to the expiration of his or her fixed-term appointment, the circular stated that a termination indemnity would be payable.

b. It was also indicated that where the staffing table for the new missions reflected new posts or where the functions of a post had changed by more than 30%, the post would have to be filled through the regular competitive selection process and not through the comparative review process.

... On 8 July 2011, the Security Council formally established [United Nations Mission in the Republic of South Sudan (UNMISS)] by resolution 1996 (2011). [...]

... Following the establishment of UNMISS, the Security Council passed a resolution on 11 July 2011 terminating the mandate of UNMIS and calling upon the Secretary-General to withdraw all UNMIS personnel by 31 August 2011 with the exception of those required for the mission's liquidation. [...] It was envisioned that appropriate staff and assets were to be transferred from UNMIS to UNMISS to ensure the achievement of the functions required of the new mission. [...] The resolution also

... On 28 July 2011, the Applicant received another letter from Mr. Ojjero asking him to check [...] out by 4 August 2011. On the same day, he wrote to Mr. Ojjero and the Under-Secretary-General for the Department of Peacekeeping Operations

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7. The UNDT erred by setting compensation in lieu of rescission at two years' net base salary given that this amount of compensation was excessive. Mr. Andreyev was never

hand, pertain to the process. In particular, he successfully established that: (a) UNMIS had no delegated authority to terminate his appointment; (b) the process had not been transparent; and (c) the reasons provided by UNMIS for terminating his appointment were contradictory, inconsistent and inaccurate.

21. Although the total award for moral injury may be on the high end of the discretionary range, an error of principle has not been demonstrated.

22. There is a significant body of evidence in support of the factual findings of the Dispute Tribunal, one of which was that Mr. An dreyev's appointment was terminated without any requisite authority. The Dispute Tribunal heard the evidence of four witnesses and was entitled to draw anyND -.9awo pp1.4(3ionvis n-2.8.9awo)rc (ter4.4(l)h2.9(ess c-5.5(e)2dibil-7.5(b)1.5

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Judgment No. 2015-UNAT-501