Introduction

- 1. The A !"#ant "s a P\$og\$amme % anagement &ff"#e\$ at the P'3 !e(e! "n the) ua!"t* Cont\$o! and &(e\$s"ght team+ ,nteg\$ated P\$og\$amme and &(e\$s"ght -\$an#h+ D"("s"on fo\$ & e\$at"ons . "th the Un"ted Nat"ons &ff"#e on D\$ugs and C\$"me /0UN&DC12 3ased "n V"enna+ Aust\$"a.
- 2. -* a !"#at"on dated 26 Ju!* 2012+ he #ontests the de#"s"on of UN&DC to f"nd h"m "ne!"g"3!e fo\$ a P'4 ost of 5e \$esentat"(e+ 6u3'5eg"ona! &ff"#e fo\$ the Gu!f Coo e\$at"on Coun#"! Count\$"es /0GCC12+ 7o3 o en"ng num3e\$8 11'D5U'UN'&99,C: &N D5UG6 AND C5,%:'1;<<='5'A-U D>A-, /?2 /0P'4 ost12.

Background facts

- 3. The A !"#ant ente\$ed "nto the se\$("#e of the Un"ted Nat"ons "n 1;<4. >e .as \$omoted to the P'3 "n 1;;2 and "n 2006 h"s f"@ed'te\$m a o"ntment .as #on(e\$ted "nto a e\$manent a o"ntment. As of 1 Ju!* 200= he .as se!e#ted to se\$(e on an ass"gnment at the A'4 !e(e! to the ost of 5eg"ona! P\$og\$amme Coo\$d"nato\$ fo\$ the GCC+ UN&DC "n V"enna. >e .as "nfo\$med that u on #om !et"on of h"s ass"gnment+ he .ou!d e(e) to h"s "n"t"a! P'3 ost.
- 4. ,n Janua * 200;+ the A !"#ant a !"ed fo * the os"t"on of 6en"o * P * og * amme Coo * d"nato * "n A3u Dha3"+ at the A'4 !e(e! /VA Num3e * 0; 'P * G' UN * DC'42034='5'A3u Dha3"2. Th"s (a#an#* announ#ement . as #an#e!!ed "n %a * #h 200:.
- 4. ,n %a* 200; the :@e#ut"(e D"\$e#to\$ of UN&DC made a de#"s"on to !ate\$a!!* \$e'ass"gn the A !"#ant to an A'4 ost as P\$og\$amme Coo\$d"nato\$ "n A3u Dha3". >o . e(e\$+ he ne(e\$ tooB u th"s ost and th"s de#"s"on . as . "thd\$a . n on 4 De#em3e\$ 200;.
- 6. The A !"#ant su3seCuent!* #ontested the de#"s"on to no !onge\$ \$e'ass"gn h"m to a3o(e'\$efe\$en#ed A'4 ost and th"s T\$"3una! \$e7e#ted h"s a !"#at"on "n

7udgment Al-Mulla UNDT/2011/104. The a ea! aga"nst th"s 7udgment . as d"sm"ssed 3* the A ea!s T\$"3una! "n 7udgment Al-Mulla 2012'UNAT'226.

=. - * "nte\$'off"#e memo\$andum dated 1 %a\$#h 2010 add\$essed to the :@e#ut"(e D"\$e#to\$ of UN&DC+ "t . as \$e#ommended8

To ass"gn Dthe A !"#antE /P6C ost 202464+ P'32 to the) ua!"t* Cont\$0! and &(e\$s"ght Un"t . "th"n ,P - and #hange the ost t"t!e to P\$og\$amme &ff"#e\$ /) ua!"t* Cont\$0!2. 90\$ th"s ost+ Dthe Gene\$"# Jo3 P\$of"!eE of a 6en"o\$ P\$og\$amme &ff"#e\$ a !"es 3ut "t "s to 3e #om !emented . "th F sho\$t DTe\$ms of 5efe\$en#eE F Th"s !ate\$a! \$eass"gnment . "!! #onst"tute a su3stant"(e #hange "n fun#t"ons to 3e e\$fo\$med 3* the staff mem3e\$.

- <. &n 2 % a\$#h 2010+ the A !"#ant \$e#e"(ed the te\$ms of \$efe\$en#e fo\$ the afo\$ement"oned P'3 ost. &n; % a\$#h 2010+ the : @e#ut"(e D"\$e#to\$ a \$o(ed the \$e#ommendat"ons #onta"ned "n the afo\$ement"oned "nte\$'off"#e memo\$andum.
- ;. -* ema"! dated 12 %a\$#h 2010+ the A !"#ant .as ad("sed of h"s \$eass"gnment to the afo\$ement"oned ost. >e tooB u h"s fun#t"ons on 14 %a\$#h 2010 and 3* ema"! dated 24 %a\$#h 2010+ he \$e#e"(ed the e\$sonne! a#t"on fo\$ms fo\$ h"s \$eass"gnment to the a3o(e ost and h"s \$etu\$n to a e\$manent a o"ntment at the P'3 !e(e!. The A !"#ant \$eCuested management e(a!uat"on \$ega\$d"ng th"s \$eass"gnment on 1 August 2011. ,n 7udgment Al-Mulla UNDT/2012/044 th"s T\$"3una! found h"s a !"#at"on not \$e#e"(a3!e 3e#ause he d"d not #om !* . "th the \$es#\$"3ed statuto\$* t"me'!"m"ts. The a ea! aga"nst th"s 7udgment "s st"!! end"ng.

Facts

- 10. The P'4 ost "n Cuest"on . as ad(e\\$t"sed "n ,ns "\\$a as f\\$om 14 June 2011 to 14 Ju!* 2011 and the A !"#ant a !"ed fo\\$ "t on 14 Ju!* 2011.
- 11. &n = De#em3e\$ 2011+ the A !"#ant \$e#e"(ed an ema"! f\$om the &ff"#e of >uman 5 esou\$#es % anagement "nfo\$m"ng h"m that h"s #and"datu\$e aga"nst the P'4 ost as unsu##essfu!.
- 12. &n 23 Janua\\$* 2012+ the A !"#ant \\$eCuested management e(a!uat"on of the de#"s"on and \\$e#e"(ed a \\$es onse on 2= A \\$"! 2012 "n . h"#h the

14. The 5 es ondent # a # summer # summer to se # on 6.1 of # 6T/A,/2010/3 /6taff 6e!e # on 6*stem2+ the A !"#ant as at the t"me of h"s a !"#at" on fo # the P'4 ost . as at the P'3 !e(e! hen#e "ne!"g"3!e to a !* fo # "t.

Consideration

- 16. The ma"n "ssue to 3e dete\$m"ned 3* the T\$"3una! "s . hethe\$ o\$ not the A !"#ant . as e!"g"3!e to a !* fo\$ the P'4 ost as of 14 Ju!* 2011.
- 1=. 6e#t" on 6 of 6T/A,/2010/3 0:!"g"3"!"t* eCu"ements1 . h"#h "n ast states as fo!!o.ss
 - 6.1 6taff mem3e\\$s ho!d\"ng a e\\$manent\#ont\"nu\"ng\\$o3at\"ona\\$* o\\$ f\"@ed'te\\$m a o\"ntment sha!! not 3e e!\"g\"3!e to a !* fo\\$os\"t\"ons mo\\$e than one !e(e! h\"ghe\\$ than the\"\\$ e\\$sona! g\\$ade. 6taff mem3e\\$s \"n the Gene\\$a! 6e\\$(\"\#e and \\$e!\ated \#atego\\$\"\es ho!d\"ng a e\\$manent\#ont\"nu\"ng o\\$ f\"\@ed'te\\$m a o\"ntment ma*a !* fo\\$os\"t\"ons \"n the 9\"e!d 6e\\$(\"\#e \#atego\\$* at an* !e(e!\#\"\\$\es e\#t\"(e of the g\\$ade he!d \"n the Gene\\$a! 6e\\$(\"\#e and \\$e!\ated \#atego\\$\"\es \"\#e and \\$e!\ated \#atego\\$\"\es \"\es \"\es \"\#e and \\$e!\ated \#atego\\$\"\es \"\es \
- 1<. As of 14 % a\$#h 2010+ the A !"#ant . as en#um3e\$"ng a P'3 ost . h"#h he #ont"nues to en#um3e\$ as at the date of h"s a !"#at"on to the T\$"3una!. The \$e!e(ant e\$sona! a#t"on fo\$ms #!ea\$!* "nd"#ate that u on h"s \$eass"gnment to h"s #u\$\$ent P'3 ost+ h"s e\$manent a o"ntment+ at the e\$sona! P'3 g\$ade+ . as \$esto\$ed effe#t"(e 14 % a\$#h 2010.
- 1;. 6"n#e a P'4 os"t"on "s o3("ous!* mo\$e than one !e(e! h"ghe\$ than P'3+ "t fo!!o.s f\$om the a3o(e \$o("s"on that a staff mem3e\$ at the g\$ade of P'3+ ho!d"ng an* of the !"sted t* es of #ont\$a#t+ sha!! not 3e e!"g"3!e to a !* fo\$ a P'4 ost+ the A !"#ant ho!ds a e\$manent a o"ntment and . as a P'3 as at the t"me of a !"#at"on fo\$ the P'4 ost.
- 20. The\$efo\$e+ the de#"s"on to e@#!ude the A _!"#ant f\$om #ons"de\$at"on fo\$ the P'4 ost "s !ega!.
- 21. The T\$"3una! does not ha(e to #ons"de\$. hethe\$ the A !"#ant had 3een "n"t"a!!* sho\$t!"sted fo\$ the ost at the P'4 !e(e!+ 3efo\$e "t had 3een \$e#!ass"f"ed.

,t "s und"s uted that the os"t"on at staBe had 3een \$e#!ass"f"ed f\$om the P'4 to P'4 !e(e! effe#t"(e 1 % a* 2011. The A !"#ant d"d not taBe an* !ega! a#t"on+ 3e "t \$ega\$d"ng the #an#e!!at"on of the (a#an#* announ#ement fo\$ the P'4 os"t"on+ o\$. "th \$es e#t to the \$e#!ass"f"#at"on e@e\$#"se+ at the mate\$"a! t"me and "s no . no !onge\$ ent"t!ed to do so.

22. ,n !"ght of the fo\$ego"ng+ the A !"#antHs #!a"ms \$ega\$d"ng h"s a!!eged a\$t"#" at"on "n . h"st!e 3!o . "ng a#t" ("t"es as . e!! as \$ega\$d"ng 3e"ng a ("#t"m of