



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2018/061

Judgment No.: UNDT/2020/051

Date: 7 April 2020

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

HASSAN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Linda Mohlin, UNDP

Introduction

1. The Applicant, a former Programme Analyst at a National Officer B-Grade level with the United Nations De Arab Emirates fixed-

6. On 10 December 2017, the Resident Representative and Resident Coordinator
RR/RC sent an email to the HR Assistant, asking that

This decision is based on the pertinence of the position in the current country office context. The main goals assigned to the position include support to economic development in the Northern Emirates. These

would wrap up existing activities and close the existing office by June 2018. The UAE government wished to continue to work with UNDP to define a successor relationship based on the concept of a UNDP liaison office that would be a direct heir to the country programme upon its closure.

12. On 1 March 2018, the Applicant requested a management evaluation of the decision notified to him u99(to)-81(him)1479.02 603.58 T9m u99(to)-81(him)2 792 reW*012 0u78 21

19.

request , and, as the Appeals Tribunal held in *Islam* 2011-UNAT-115,

(see *Islam* 2011-UNAT-115 (paras. 29-32), *Obdeijn* 2012-UNAT-201 (paras. 33-39), *Pirnea* 2013-UNAT-311 (paras. 33-34)).

29. It is also well settled jurisprudence that an international organization necessarily has power to restructure some or all of its departments or units, including through the abolition of posts. The Tribunal will not interfere with a genuine organizational restructuring even though it may have resulted in the loss of employment of staff. However, like with any other administrative decision, the Administratio

second most junior staff and the most junior staff member was the G-5; (b) two other programme staff members had significantly longer fixed-term appointments; (c) he was working on an ad hoc basis on partnerships, a function that was not limited to his role, but which all programme staff performed; and (d) the abolition of his post would achieve significant cost savings needed to close the deficit.

40. The record shows that while it is true that except for three management staff, the Applicant was the second most junior staff member—the most junior staff member being at the G-5 level—it is not clear why the abolition of post was needed to close the deficit. In fact, the budget deficit for 2017 was USD101,808.07 and the cost for the G-5 staff member, the most junior staff member,

Remedies

48.

(a) Rescission of the contested administrative decision or specific performance, provided that, where the contested administrative decision concerns appointment, promotion or termination, the Dispute Tribunal shall also set an amount of compensation that the respondent may elect to pay as an alternative to the rescission of the contested administrative decision or specific performance ordered, subject to subparagraph (b) of the present paragraph;

(b) Compensation for harm, supported by evidence, which shall vary of the applicant. The Dispute Tribunal may, however, in exceptional cases order the payment of a higher compensation for harm, supported by evidence, and shall provide the reasons for that decision.

49. Having concluded that the contested decision is unlawful, it is appropriate to rescind the contested decision

c. Should the Respondent elect to pay in lieu compensation, the Applicant shall be paid, as an alternative, a sum equivalent to two months of -base salary at the time of his separation;

d. The Applicant claim for moral damages is rejected;

e. If payment of the above amount is not made within 60 days of the date at which this judgment becomes executable, five per cent shall be added to the United States Prime Rate from the date of expiry of the 60-day period to the date of payment. An additional five per cent shall be applied to the United States Prime Rate 60 days from the date this Judgment becomes executable.

(Signed)

Judge Joelle Adda

Dated this 7th day of April 2020

Entered in the Register on this 7th day of April 2020