



Judgment No. 2014-UNAT-419



Counsel for Appellant: Self-represented
Counsel for Respondent: Simon Thomas

A broad brush suggestion that a particular policy is discriminatory is not sufficient for the purposes of litigation. The Tribunal is not in the business of reviewing policies within the Organisation, except where an applicant clearly demonstrates that a specific decision has been made, which is adverse to his or her interests, in furtherance of that policy.¹

6. Mr. Reid appeals the UNDT Judgment.

Submissions

Mr. Reid's Appeal

7. Mr. Reid submits that the UNDT made an error in fact in holding that he was making "broad brush suggestions"; rather, he has made very specific allegations of discrimination and a specific complaint as to why he, as a man, was rostered for only two years when women were rostered for three.

8. Mr. Reid submits that there is no strict definition of "administrative decision" as referred to under Article 2(1)(a) of the UNDT Statute; what amounts to such should be decided on a case by case basis. The UNDT jurisprudence confirms that a challenge to a policy and the "failure of the administration to act" amount to an administrative decision subject to judicial review. It is irrelevant if an administrative decision affects the particular individual or a larger group as long as it affects the person directly.

9. Mr. Reid argues that the UNDT erred in law and failed to exercise its jurisdiction by finding that it had no jurisdiction to review the lawfulness of administrative issuances. In accordance with the jurisprudence of the UNDT and the former Administrative Tribunal, all rules applying to staff members are subject to judicial review.

10. Mr. Reid contends that Article 2(1)(a) of the UNDT Statute gives the Dispute Tribunal competence to hear an appeal regarding an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment, which include all pertinent Regulations, Rules, Bulletins, and Administrative Instructions issued by the Secretary-General. ST/SGB/2008/5 entitled "Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority" which prohibits discrimination based on gender provides that "discrimination" does not have to be an isolated incident but may also apply to a group of similarly situated persons. It also provides the applicant with a remedy, stating that

¹ Impugned Judgment, para. 15.

applicable norms and with the rights of the other candidates, in order to determine whether or not the alleged violation took place.²

Judgment

19. In view of the foregoing, the Appeals Tribunal dismisses the appeal and affirms the UNDT Judgment.

² *Planas v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-049, paras. 20-22.

Original and Authoritative Version: English

Dated this 2nd day of April 2014 in New York, United States.

(Signed)

Judge Weinberg de Roca,
Presiding

(Signed)

Judge Lussick

(Signed)

Judge Chapman

Entered in the Register on this 13th day of May 2014 in New York, United States.

(Signed)

Weicheng Lin, Registrar