

Introduction

1. The Applicant held a fixed-term appointment at the GS-3 level when he served as an Administrative Clerk/Dispatcher at the United Nations Development Programme Programme of Assistance to the Palestinian People (UNDP/PAPP). He was based in East Jerusalem.

8. On 27 May 2021, the Respondent file an

Headquarters-led restructuring exercise, and weeks after the Administration
The Applicant
was the only staff member encumbering a post abolished in either 2018 or 2020
who was not invited to apply for agreed separation.

32. On 2 October 2018, the Applicant again requested to move to East Jerusalem.

33. On 3 October 2018, Office of Human Resources in Headquarters,
and Mr. Geoffrey Prewitt, then-Deputy Special Representative in UNDP-PAPP
both reiterated that the Applicant was to remain in Ramallah.

34. On 1 December 2018, Mr. Al Hammal joined UNDP-PAPP as the Operations
and Services Manager.

35. On 18 April 2019, the Applicant wrote, to the Operations and Services
Manager, and asked again to be reassigned to East Jerusalem. The Applicant
complained to Mr. Al Hammal that he was effectively precluded from exercising
the functions of his post. The Applicant specified the tasks and activities which
form part of the Job Description for his post but which he no longer performed.

36. d not
changed. Mr. Al Hammal did not address the Applicant
regarding the stripping of his core job functions.

37. On 10 May 2019, the Operations and Services Manager met the Applicant,
together with representatives of both OHR and the Local Staff Association to
discuss the ongoing disagreement and once more attempt, to resolve it, without
success.

38. On 19 June 2019, the Applicant requested management evaluation regarding:
(1) the decision to strip him of the majority of his functions and duties; (2) the
decision to move him from his duty station of East Jerusalem to Ramallah; and (3)
related to the outcome of the restructuring process. The Applicant named Mr Al

46. On the same day, the Applicant was requested to attend a meeting with Mr. Al Hammal to discuss the planned abolition of his post.

47. The

65. An example of the argument mounted by the Applicant was that the Administration refused to return him to his substantial post in Jerusalem but instead kept him in a post in Ramallah which suffered reduced funding. Later, it was shown that the Jerusalem office had sufficient funding for his appointment to be renewed if he was sent back to Jerusalem.

66. Indeed, in Je

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Judgment

Conclusion

90. The Tribunal is not in a position based on the law to find that the decisions taken by the Administration were unlawful because firstly, the refusal to renew the

91. Secondly the Applicant has not appealed the disability finding and termination on those grounds and subjected it to review by management evaluation.

92. For those reasons alone, the Application must be dismissed.

Further Observation

93. Given the peculiar circumstances of this case, the Tribunal finds it appropriate to refer the matter to the Secretary-General pursuant to article 10(8) of the Statute for special consideration of accountability since the overall impact of the decisions taken seem to run contrary to the Charter of the United Nations in respect of its aim of finding dedicated staff and enhancing their ability to serve the organisation diligently.

94. Article 101 of the Charter of the United Nations states:

The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

95. It is doubtful whether the decisions taken by the Administration in this matter led to an achievement of the ideal expressed in Article 101 of the Organiz Charter.

96. It is also doubtful whether due regard was given to regulation 4.4 of article IV of the Staff Regulations which requires that in filling vacancies, regard should be had to the requisite qualifications and experience of persons already in the service of the United Nations. In this case the Administration went outside the available staff pool to increase the capacity of the Jerusalem dispatch office by employing a private contractor.

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