
UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2024-UNAT-1470

Nina Humackic
(Appellant)

Counsel for Appellant: George G. Irving

Counsel for Respondent: Noam Wiener

without reaching an agreement.⁶ In the application to the Dispute Tribunal, Ms. Humacki stated that UNOMS' recommendation was to change reporting lines to separate the supervisory relationship between the parties.⁷

9. On 13 May 2022, the Director of Mission Support (D/MS) met separately with the parties to advise them on the possibility of reassignment.

18. The UNDT found that maintaining a harmonious work environment and the prevention of prohibited conduct was a valid operational reason for reassignment.²¹ The four-year acrimony must have contributed to a negative working environment for other staff members within the

members were

authority, which she does not have, are required to perform the normal duties in a generic job description of a Procurement Officer at the FS-6 level. This places her in an untenable situation. Furthermore, it appears curious that no prior consultation took place in her case.

26. Ms. Humackic submits that the UNDT erred in adopting the Secretary-General's unproven assertion that she was rostered for the PO post. No evidence was produced that the job codes used for PO and CMO are "associated" and that the rosters are interchangeable. The only job titles associated with CMO are Supply Chain and Requisition Officer and Acquisition Planning Officer. Moreover, they involve different job families.

27. Referring to medical reports in Annex 9 to the appeal, Ms. Humackic asserts that

CMOs and POs belong to the same job network. Consequently, she was listed as being rostered for both the CMO post and the PO post, demonstrating that the Organization considered her qualified for both.²⁸

32. Finally, the Secretary-General argues that all individuals hired to serve as POs in the Organization undergo training to familiarize them with the Organization's procurement policies and Ms. Humackic is receiving procurement training.

Considerations

33. The central issue in the appeal is whether the administrative decision to laterally reassign Ms. Humackic

reassignment was lawful. Ms. Humackic says that ST/SGB/2019/8 contemplates reassignment only as an interim measure and does not authorize or envisage the removal of a complainant from his or her position without consent.

38. We do not disagree that the Administration likely failed to follow the proper procedure set out in ST/SGB/2019/8 in responding to and investigating prohibited conduct alleged in Ms. Humackic's complaint dated 24 November 2021. The contentious environment due to the relationship between Ms. Humackic and her FRO is the context in which the reassignment decision was made. However, the appropriateness of whether proper procedure in ST/SGB/2019/8 was followed is not before the Appeals Tribunal in this appeal.

39. The issue of the Administration's inaction with respect to the complaint was adjudicated in a separate Dispute Tribunal case and Judgment No. UNDT/NBI/2022/076 where the Dispute Tribunal found the application not receivable. Therefore, we are perplexed as to the relevancy of the Dispute Tribunal's finding in the impugned Judgment that the procedural steps mandated by ST/SGB/2019/8 as relating to misconduct and prohibited conduct were not accurately followed.

40. Further, in a Case Management Session, the Dispute Tribunal bifurcated the applications and informed Ms. Humackic that the present application would proceed on her claim for compensation for the reassignment decision.

41. Therefore, the handling of her complaint was the subject of another Dispute Tribunal case and Judgment, and the procedural shortcoming of the complaint process was adjudicated in that matter.

42. In the reassignment decision that is the subject of this appeal, Ms. Humackic argues that the Administration required her consent for the reassignment. We find this argument misplaced. There is no such requirement in the applicable legal and administrative framework or in the jurisprudence of the Appeals Tribunal.

43. Staff Regulation 1.2(c) specifically requires that the Secretary-General, in exercising the authority to reassign, must "seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for staff carrying out the responsibilities entrusted to them". There is no procedural requirement that the staff member consent to the reassignment.

29 December 2021 communication, the Assistant Secretary-General confirmed the mandatory training and certification requirements for all procurement personnel.³⁵

48. Therefore, we accept that the responsibilities and job functions were commensurate with Ms. Humackic's competence, skills, and experience. The job functions of the two positions do not need to be identical.

49. Ms. Humackic says that the reassignment has placed her in a "less favourable position" because the post in the Procurement Section is technically being "loaned" for a limited duration, putting her future job security in question. We accept the Secretary-General's evidence that because her post was transferred with her, there was no change to the funding source for the post or any increased risk to future job security. Further, Ms. Humackic suffered no economic prejudice with the lateral reassignment.

50. Therefore, we find that the procedural requirements of the reassignment decision were met.

Whether there was an operational need for the reassignment and whether the reassignment decision was properly motivated

51. Ms. Humackic

CMU. Therefore, the reassignment decision for both Ms. Humackic and the FRO was fair and in the CMU

