



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Tadonki

(Respondent/Applicant)

v.

Secretary-General of the United Nations

(Appellant/Respondent)

J

JUDGE MARK P. PAINTER, Presiding.

7. On 1 September 2009 the UNDT issued a judgment UNDT/2009/016 on Tadonki's SOA application. It was not persuaded by the Administration's claim that Tadonki's appointment had been extended for two months to 3 November. As it was not satisfied that Respondent had implemented the PAS rebuttal panel's findings or the recommendations of the Panel on Discrimination and Other Grievances (PDOG), UNDT determined that the decision not to renew "appears to be in breach of the Organization's Rules" and "international legal norms relating to due process". UNDT found that the contested decision was prima facie unlawful, that the matter was urgent, and that Tadonki would suffer more than the Administration if his SOA application was not granted, as he would not have a paid appointment and would suffer psychological stress that would compound his state of health. UNDT thus ordered that the decision not to renew Tadonki's appointment be suspended pending the final determination of the substantive case. Moreover, it ordered as an interim measure that Tadonki be paid half his salary until the final determination of the case.

Considerations

8. The UNAT Statute does not clarify whether UNAT may review only a judgment on merits, or whether an interlocutory decision may also be considered a judgment subject to appeal. But one goal of our new system is timely judgments. This Court holds that generally, only appeals against final judgments will be receivable. Otherwise, cases could seldom proceed if either party was dissatisfied with a procedural ruling.

9. But as we state in *Kasmani*¹ and *Onana*², the prohibitions on appeals in Articles 2(2) and 10(2) of the UNDT Statute cannot apply where the UNDT issues orders that purport to be based on these articles but in fact exceed its authority. For instance, if UNDT were to award punitive damages as an "interim measure", this judgment could be appealed before UNAT, because such a judgment would exceed the authority of UNDT.

10. UNDT has no authority under Article 2(2) to order a suspension of the contested decision beyond the deadline for management evaluation. UNDT exceeded its jurisdiction in ordering suspension of the decision not to renew Tadonki's employment "pending the final

¹ *Kasmani v. Secretary General*, Case No. 2009-015.

² *Onana v. Secretary General*, Case No. 2009-009.

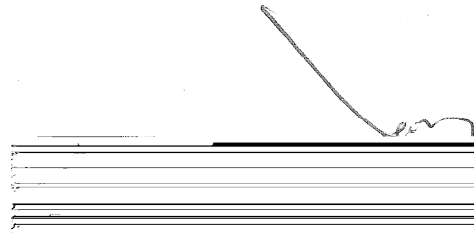
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Judgment

12. This Court annuls the UNDT judgment of 1 September 2009, UNDT/2009/016.



Judge Painter, Presiding



Judge Weinberg de Roca



Judge Courtial

Dated this 30th day of March 2010 in Geneva, Switzerland.

Original: English

Entered in the Register on this 26th day of April 2010 in New York, United States.

Weicheng Lin, Registrar, UNAT
