



JUDGE KAMALJIT SINGH GAREWAL , Presiding.

Synopsis

1. The Appellant is Ibrahim Ninah Abdallah (Abdallah) who held a fixed-term contract which was not extended. He challenged this decision before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) on the ground that his due process rights were violated without completion of his final e-PAS. The Respondent's case was that the decision was taken on account of Abdallah's chronic absenteeism. The UNDT held against the Appellant and dismissed his application. We find no reason to differ. The appeal is dismissed.

Facts and Procedure

2. Abdallah joined the International Criminal Tribunal for Rwanda (ICTR) on 15 July 1997, as a Messenger at the G-1B level under a 100 series fixed-term contract. In February 2000, he was promoted to the G-2 level as a result of a reclassification exercise. His post was upgraded and its functional title changed to Reproduction Clerk. Abdallah's most recent fixed-term appointment began on 30 November 2007 and was due to expire on 30 January 2008.

3. On 23 January 2008, Abdallah was informed in writing that his fixed-term appointment had been approved for a "final extension" until 29 February 2008. Upon Abdallah's request, the President of the ICTR Staff Association wrote to the Registrar of the ICTR on 18 February 2008, asserting that Abdallah's supervisor had not duly considered the reasons for Abdallah's absences and had failed to put in place an improvement or remedial plan for him.

4. On 25 February 2008, Abdallah's supervisor replied that Abdallah had been given oral and written warnings; that Abdallah kept promising to improve his attendance record but never kept his promises; and that Abdallah had received a "partially meets performance expectations" rating for at least three e-PAS cycles.

5. The Chief, Division of Administrative Support Services, ICTR, also responded to the Staff Association's memorandum on 11 March 2008 by stating that the ICTR Administration had duly taken into account Abdallah's explanations about any absences

from work whenever he showed good cause. He stated that the ICTR Administration had never refused to take into account leave approval from concerned medical officers. Most of Abdallah's absences were allegedly due to ill health, which had never been confirmed by the ICTR medical officer.

6. On 10 April 2008, Abdallah sought administrative review and suspension of action of the decision not to renew his fixed-term appointment beyond 29 February 2008. On 16 April, the Secretary of the Joint Appeals Board (JAB) informed Abdallah that the action could not be suspended because his appointment had already expired. On 10 June, the Administrative Law Unit rejected Abdallah's request for administrative review.

7. Abdallah filed an appeal with the New York JAB on 11 August 2008. The JAB did not review his case before its abolition on 1 July 2009. Abdallah's case was subsequently transferred to the UNDT Nairobi

8. The UNDT issued its Judgment on 30 March 2010 (UNDT/2010/049), dismissing Abdallah's application. It found that the impugned decision "was not informed by improper motive"; the Administration did not abuse its authority; "[t]he circumstances of

11. Abdallah submits that his basic rights as a staff member were violated since his

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2010-UNAT-091

22. On 22 May 2007, in the end-of

Judgment

27. This appeal is without merit and is rejected.

Dated this 27th day of October 2010 in New York, United States.

Original and authoritative version: English

(Signed)

Judge Garewal, Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Simón

Entered in the Register on this 29th day of December 2010 in New York, United States.

(Signed)

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