





that as a permanent staff member, she would “carry over [her] ‘permanent status’ into the project funded position”.

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... According to the Respondent, prior to the email of 1 May 2014, on 29 April 2014, the Applicant had a Skype conference call with a Human Resources Specialist, OHR, Headquarters, and with the Human Resources Associate in the Human Resources Unit, UNDP, Iran, during which it was clarified that she would not be eligible for after service health insurance (“ASHI”) upon her separation.

... Following her receipt of the above-mentioned email from Human Resources[,] UNDP, of 1 May 2014, by email of the same day, the Applicant requested a meeting, which was held on 4 May 2014 between her, a staff member from the Human Resources Unit, UNDP, Iran, and the Deputy Resident Representative.

... In an email of 22 May 2014 to the Applicant, the Deputy Resident Representative noted that the question on MIP coverage post separation still needed some clarification and that “on the MIP coverage there is lack of clarity in the advice given to [her] by K. [on 29 November 2011]. While extant policies do not allow for what K. has clarified we need to have clarity and we are waiting for the same”. The Applicant states that she then wrote to the Human Resources Unit at Headquarters, but did not receive a response.

... On 23 May 2014, the Applicant wrote to the MIP Focal Point, seeking his advice on her MIP status upon agreed termination. The Deputy Resident Representative sent a follow up to the MIP Focal Point on the same day, noting that it was necessary to provide the Applicant with a “clear clarification”.

... By email of 27 May 2014, the MIP Focal Point informed the Applicant that he had looked at the emails she had sent him and noted that she would not be eligible for ASHI, which, as per the guidelines for abolition of posts, required that she be “at least 50 years old”.

... In subsequent communications, the Applicant requested the Deputy Resident Representative to raise the issue with [Headquarters (HQ)], which he noted he was willing to do to explore other options.

... On 18 July 2014, the Applicant, through [the Office of Staff Legal Assistance (OSLA)], submitted a request for management evaluation of the decision not to provide her with after-service healthcare (ASHI/MIP), referring to a notification of said decision on 27 May 2014. No other issues were included in this request.

... By email of 30 September 2014, the Deputy Resident Representative informed the Applicant that the Country Office had secured additional funding to cover the cost of the post until 31 December 2014, and that UNDP, Headquarters, had advised that the notice separation period, ending 17 October 2014, would be maintained. The temporary assignment would follow the notice period, thus running from 18 October to 31 December 2014, and, in case no further additional funding was found, the Organization would proceed with her separation effective 31 December 2014.

3. On 12 January 2015, “[a]fter failing to reach an informal settlement”, Ms. Seyfollahzadeh filed an application with the Dispute Tribunal contesting her separation from service, the decision that she was not eligible for ASHI, and not being allowed the benefits of the United Nations Joint Staff Pension Fund.

4. On 12 May 2015, the Dispute Tribunal rendered its Judgment, concluding Ms. Seyfollahzadeh’s application was not receivable. The UNDT found that as Ms. Seyfollahzadeh’s request for management evaluation of 18 July 2014 covered only the issue of her eligibility for ASHI/MIP, the remainder of the issues raised in her UNDT application were not receivable *ratione materiae* as they had not been exhausted. As to Ms. Seyfollahzadeh’s challenge to th

UNDP's refusal to view its 2011 e-mail as creating a legitimate expectation on her part and constituting an administrative decision "towards which UNDP could oblige itself to proceed".

7. Due to the UNDT's error in misidentifying the correct "administrative decision",

had been sought of the 1 May 2014 e-mail from the UNDP Administration, which had given advice which was inconsistent with applicable policies. Moreover, the 27 May 2014 e-mail merely confirmed what had been stated in the e-mail of 1 May 2014. Finally, Ms. Seyfollahzadeh's claim that the administrative decision should have been made by the UNDP Country Office senior management is belied by her reliance on the 27 May 2014 e-mail, which came from the MIP Focal Point.

11. Ms. Seyfollahzadeh's argument that she had a "legitimate expectation" of ASHI/MIP coverage, based on the 2011 e-mail, is without merit. The language of the 2011 e-mail reveals that the e-mail was anything but a firm commitment which would give rise to a legitimate expectation.

12. The Secretary-General requests that the Judgment be affirmed and the appeal dismissed.

### Considerations

#### *Preliminary matter*

13. This Tribunal does not find that an oral hearing is necessary or would "assist in the expeditious and fair disposal of the case" within the meaning of Article 18(1) of the Appeals Tribunal Rules of Procedure. Thus Ms. Seyfollahzadeh's request is denied.

#### *The appeal*

14. Under Article 8(1)(c) of the Dispute Tribunal Statute, the UNDT has jurisdiction to receive applications appealing administrative decisions only if the applicant has "previously submitted the contested administrative decision for managerial evaluation, where required"; management evaluation or review is to correct any errors in an administrative decision so that judicial review of the administrative decision is not necessary.<sup>2</sup> Claims or administrative decisions not raised in a request for management evaluation cannot be received and considered by the Dispute Tribunal.<sup>3</sup>

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<sup>2</sup> *Pirnea v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-311, para. 42. See also *Survo v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-595, paras. 84-85, and *Luvai v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-417, paras. 28-30.

<sup>3</sup> *Ibid.* See also *Egglesfield v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-402.





Resources Unit, UNDP, Iran, and, as such, clearly emanated from a competent authority; moreover, the email explicitly referred to prior consultations with respect







Original and Authoritative Version: English

Dated this 24<sup>th</sup> day of March 2016 in New York, United States.

*(Signed)*

Judge Chapman, Presiding

*(Signed)*

Judge Simón

*(Signed)*

Judge Lussick

Entered in the Register on this 13<sup>th</sup> day of May 2016 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar