
Case No.: UNDT/GVA/2012/020

Judgment No.: UNDT/2012/112

20 July 2012

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Introduction

1. The Applicant contests the decision of the United Nations High Commissioner for Refugees to discontinue the post of Senior Contracts Officer that she has held since 2007.

2. She requests that the Tribunal rescind the contested decision, grant her compensation for the harm suffered and hold UNHCR management accountable.

Facts

3. The Applicant entered the service of the Office of the United Nations High Commissioner for Refugees (“UNHCR”) in September 2000. In December 2007, she was appointed to the P-4 expert post of Senior Contracts Officer and, as such, was in charge of the Contracts Unit in the Supply Management Service, Division of Emergency, Security and Supply (“the Division”). The Applicant, who held grade P-3, was promoted to the P-4 level as from 1 November 2009.

4. On 27 December 2011, the Applicant met with the Director of the Division in order to inform him of the difficulties faced by the Contracts Unit owing to the heavy workload of the Unit and the shortage of staff assigned to it. On that occasion, the Director of the Division mentioned that the Contracts Unit would be transferred from Geneva to Budapest and that the position of Senior Contracts Officer held by the Applicant would be discontinued.

5. In a letter dated 28 December 2011 addressed to the Applicant, the Director of the Division confirmed his intention to discontinue the position of Senior Contracts Officer effective 1 July 2012 and to create a new position, with a revised job description, in Budapest. The Director added that those measures would be submitted for approval to the UNHCR Budget Committee.

6. On 29 December 2011, the Applicant asked to meet with the Director of the Division of Human Resources Management (“DHRM”) to inquire about her professional prospects. In an email sent to the Applicant later that day, the

Contracts Unit and had recognized the need to maintain an expert presence at UNHCR headquarters in Geneva;

j. She is the only person in the Supply Management Service with the

- o. On numerous occasions in 2011, she alerted UNHCR management

c.

20. The Policy and Procedures on Assignments and Promotions annexed to IOM/FOM No. 027/2009 of 14 June 2010 stipulates that:

18. When a manager intends to request a ... discontinuation ... of a position encumbered by a staff member who was appointed either under the process set out in this P[olicy and] P[rocedures on] A[ssignments and] P[romotions] or any previous process ... the manager is encouraged to inform the staff member of his or her intent in writing. As soon as a decision to change the status of the position has been taken, the manager must formally notify the staff member in writing of the decision and the effective date of the change of status of the position.

21. It is clear from the documents on record that the Applicant received a letter dated 28 December 2011, signed on behalf of the Director of the Division and confirming his intention to discontinue her position with effect from 1 July 2012, and that, by letter dated 30 January 2012, the Director of the Division informed her that the Budget Committee had, on the same day, approved the transfer of the Contracts Unit to Budapest, that the position of Senior Contracts Officer would therefore be discontinued effective 1 August 2012 and that a new position, with a revised job description, would be created in Budapest as from 1 April 2012.

22. The fact that the Director of the Division did not personally sign the letter sent to the Applicant does not constitute a procedural irregularity since, in any event, written notification was given.

33. Lastly, while the Applicant maintains that the contested decision was taken in violation of staff regulation 1, the Statute of UNHCR, the UNHCR Code of Conduct, recommendations adopted by the SMCC and draft resolution A/C.5/66/L.27, her allegations are not sufficiently detailed to enable the Tribunal to rule on them.

34. Thus, it follows from the foregoing that the decision to discontinue the Applicant's position must be rescinded because of the procedural irregularity identified above.

35. Since the decision to rescind the contested decision means that the latter is deemed never to have existed, the Applicant cannot claim to have suffered any material harm. With regard to the moral harm suffered by the Applicant, the Tribunal must bear in mind that the decision to discontinue her position was rescinded on procedural grounds and that it has not ruled on the merits of that decision. The Applicant is thus entitled only to compensation for the moral harm resulting from the violation of her right to be con

