



position classification was determined pursuant to the rules applicable to the service contract; and (c) after examining the allegations of abuse and harassment, the UNDP Office of Audit and Investigations closed the case, deeming a formal investigation unnecessary.

Considerations

8. The Tribunal must, in the first instance, consider whether this particular application is admissible.

Jurisdiction of the Court ratione personae

9. Under article 2 (1) (a) of its Statute,

“... the Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present Statute, against the Secretary-General as the Chief Administrative Officer of the United Nations:

(a) To appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms ‘contract’ and ‘terms of appointment’ include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance.”

10. Under article 3 (1) (a) and (b) of the Statute,

“... an application under article 2, paragraph 1, of the present Statute may be filed by:

(a) Any staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;

(b) Any former staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes.”

11. Article 3 of the Applicant’s service contract states that “the undersigned shall in no way be deemed to be a staff member of UNDP (or any other United Nations agency) and is not covered either by the United Nations Staff Regulations and Staff Rules or by the Convention on the Privileges and Immunities of the United Nations.

The undersigned acknowledges and agrees that his employment conditions differ from those that apply to UNDP staff under the United Nations Staff Regulations and Staff Rules. The rights and obligations of the undersigned are exclusively defined by the terms and conditions of this Contract. Accordingly, the undersigned is not entitled to receive any benefit, payment, grant, allowance or pension from UNDP except as expressly provided in this Contract.”

Commission for International Trade Law] arbitration rules shall apply. The use of binding arbitration shall in every case be preceded by conciliation initiated under the UNCITRAL rules.”

Decision

16. In view of the foregoing, the Tribunal decides to dismiss the application.

(Signed)
Judge Vinod Boolell
So ruled this 25th day of September 2013

Entered in the Register on 25 September 2013

(Signed)

Abena Kwakye-Berko, Acting Registrar, Nairobi