



Case No.: UNDT/GVA/2013/027

Judgment No.: UNDT/201 /013

Date: 29 January 2014

Introduction

1. The Applicant is a former staff member (employed during his last weeks of employment as an employee of the Joint United Nations Trust Fund for the Development of the East African Community, not to grant him a "last come" agreement, nor to grant him a contract on grant agreement of 20 (weeks on a count of his eight weeks of service as a staff member and 24 (weeks for his ten weeks as JUF employee and, not to allow him full assignment grant agreement upon his appointment as an employee.

Facts

2. The Applicant is employed as a Senior Specialist in the Geneva office from 1 November 1994 to 31 October 2002. At the end of 2002, he (as appointed as employee of the JUF in the Geneva office) was effective 1 January 2003 until 31 December 2007. His appointment as an employee (as subsequent) was ended for the first time on 31 December 2012, the date of his termination.

3. On 27 August and 17 September 2002, the Applicant (note to the then Assistant Secretary-General for Human Resources Management, A/3G/459 : / (the letter to his assignment and contract agreements) in the (of the former) Commission of the United Nations on 31 October 2002. On 29 October 2002, the Applicant (see) was a fact a letter from the then A/3G/459 : dated 2 October 2002. In this letter (the) is stated that the former of the "Geneva Affairs" - 4/A. / at the headquarters had been consulted on the matter of the Applicant (as informed that he (as not intended to contract upon his appointment as a JUF employee) not to full assignment agreement.!

4. Regarding the contract of the A/3G/459 : letter "effective" signed at the end of his contract, he (would be) satisfied for on (months and return Geneva) to take care of (functions as an employee. These terms do not amount to a contract. (the) in the meaning of Annex V to the Staff Regulations in force at the time. Nonetheless, his contract grant (would be) ended in effect (until)

t e end of #s te&m as an +ns!e\$to&. 5e (ou'd t en 'e !a#d t e amounts on es\$&o (% added to an* fu&t e& \$&ed#ts a\$\$&ued du&#ng #s sek)#\$e as an +ns!e\$to&& u! to t e ma2#mum !&o)#ded fo& #n t e 3taff 9egu"at#ons and 9u"es# #n a\$\$o&dan\$e (# t t e a!!"#a' "e &u"es.

; . Con\$e&n#ng t e ass#gnment g&ant% #t (as e2!"a#ned t at a&t. 14 of t e J+U 3tatute fo&sees \$om!ensato&* and #nsu&an\$e a&&angements fo& #ts +ns!e\$to&s e6u#)a"ent to t ose of staff mem'e&s at t e D&2 "e)e". Unde& staff &u"e 107.20 ,e/ and se\$. =.1 of 3T/A+/2000/17 , -Ass#gnment G&ant./% a staff mem'e& (o &etu&ns to a !&#o& dut* stat#on (as not to 'e !a#d t e fu"" ass#gnment g&ant un"ess e/s e ad 'een a'sent fo& at "east one *ea&. T e A!!"#&ant (as to 'e !a#d #nstead a !&o& &ata s a&e of t e ass#gnment g&ant \$o&&es!ond#ng to t e !e&#od e (as a (a* f&om t e sa#d dut* stat#on% (# \$ #n #s \$ase (as t (o mont s.

=. A\$\$o&d#ng to t e A!!"#&ant% e &e!eated"* &e6uested to 'e sent 4<A ad)#\$e &efe&&ed to #n t e \$ommun#sat#on of 2; 4 \$to'e& 2002% 'ut s#n\$e e ne)e& &e\$e#)ed #t% e de\$#ded to ' &#ng u! t e matte& aga#n at t e end of #s te&m as J+U +ns!e\$to&. T e A!!"#&ant t us d#d not \$ontest t e 2; 4 \$to'e& 2002 de\$#s#on of t e A3G/459 : .

7. 4n 29 June 2010% fo""o (#ng an #n6u&#* '* t e A!!"#&ant on #s ome "ea)e ent#t"emergs% uoe of&ete)2002 \$7(ma) 49 e&ou20847 (t) -o&ffestou)3-984 (a) 1.82.886(ot) 2106793684 3.00781 (%)-30 (a)37 3.4739.1eate (a)3.84766 (nt)-2.16797-0.83984 4 ()3.8380 (s)-0.839897nds A97 (ot)-2.16

dated 1= No)em'ed 2012 of t e A3G/459 :. 5e &e#)ed a &e!"* on
7 : a&\$ 2013% '* (# \$: 1U u! e'd t e \$ontested de\$#s#on.

13. Bo""o (#ng t e su'm#ss#on of t e a!!"#Sat#on 'efo&e t #s T&#'una"% dated
7 June 2013% t e 9es!ondent f#"ed #s &e!"* on 12 Ju"* 2013.

14. ?* 4&de& No. ; ,GVA/2014/% #ssued on 14 Janua&* 2014% t e T&#'una"
#nd#\$ated #ts)#e(t at t e !&esent \$ase \$ou'd 'e de\$#ded on t e !a!e&s% and ga)e
t e !a&t#es t e o!!o&tun#t* to su'm#t o'se&)at#ons t e&e on '* 20 Janua&* 2014.
None of t e !a&t#es su'm#tted o'se&)at#ons.

Parties' submissions

1;. T e A!!"#SantAs !&n\$#!a" \$ontent#ons a&eC

- a. 5e as a &#g t to a f#ft ome "ea)e ent#t"ement as% unde& t e J+U
3tatute% #ns!e\$to&s a&e ent#t"ed to ome "ea)e on\$e e)e&* t(o *e&a&s of

19. In the case at hand, the A!!"\$ant did not submit a request for management evaluation before 11 Be'ua* 2013. The T&'una' finds that under a "loss" "e!e&s!eSt#)es" the A!!"\$ant missed the a!!"\$a' "e statuto* dead" nes.

20. The A!!"\$ant (as first informed of the decision not to!a* #m &e!at&at#on grant ("e o'ding #s \$&ed#ts #n es&o (unt# " #s f#na" se!a&at#on% and to!a* #m assignment grant for on"* t(o mont s on 2; 4Sto'e& 2002. At the time the A!!"\$ant admitted to contest the said decision under the former #nte&na" >ust#e s*stem. The first step for doing so as!e& fo&me& staff &u'e 11.2 ten #n fo&Se% (as to request the)e (of the adm#n#st&at#)e decision '* t e 3e&eta&*8Gene&a" (#t #n t(o mont s of #ts not#f#Sat#on. 5o(e)e& t e A!!"\$ant did not formally\$ a"enge the decision at the time it (as made. In fact, e e2!&ess"* states #n #s a!!"\$at#on that e made a Sons\$ous \$ o#Se to &a#se t e #ssue on"* at the end of #s se&)#e as J+U +ns!eSto&t at #s *e&s afte& 'eSom#ng a (a&e of t e &e'e)ant decision. <ate& on 7 and 10 4Sto'e& 2012% 59 : 3/UN4G me&e"* &e&stated the same decision. Iet#e)en t en% t e A!!"\$ant failed to request management evaluation under staff &u'e 11.2 ,\$/ t en #n fo&Se.

21. As to the decision to &e&eSt #s request for a "ast ome "ea)e" the A!!"\$ant (as informed thereof as ea&*" as 29 June 2010. Again, e did not!&esent a time* management evaluation request. After e &a#sed ane(t e same oue&*" t e Adm#n#st&at#on &e#te&ated #ts !os#t#on on 13 June 2012% t &oug a deta#ed ema# sent '* t e 3en#o& 5uman 9esou&ses 4ff#Se& 59 : 3% UN4G. A't oug e e2!&essed d#sag&reement #n #s ne2t \$o&&es!ondenSe% t e A!!"\$ant onSe mo&e fa#ed to submit a request for management evaluation. 5e #nstead (&ote to t e A3G/459 : as0#ng e& to &eSons#de& t e ea&'#e& deS#s#ons% &e"at#ng to #s &e!at&at#on and assignment grant.

22. The A!!"\$ant onh"

2; 4\$to 'e& 2002 \$on\$e&n#ng t e &e'o\$at#on and ass#gnment g&ant and on

system cannot be applied under Article 7,3/ of the Statute of the
Dispute Tribunal, UNDT Statute, due to a specific provision in
the Rules of Procedure contained in Article 7,3/. ,Ajdini et al. 2011 UNAT
107) see also Costa 2010 UNAT 03= Banned 2011 UNAT 1=9
Muratore