

Case No.

UNDT/GVA/2016/045

constitute a abandonment of "ost.. A%o'd\$ng#5 s!e u'ged t!e A""#\$%ant to est!e' 'e"o't fo' dut\$ \$mmed\$ate#5 o' to "'o+\$de a "#aus\$(#e e8"#anat\$on fo' !\$s a(sen%e.

7. T!e A""#\$%ant 'e"#sed on 14 ; %(e' 2015\$ den\$ng to !a+e a(andoned !\$s "ost and 'este'at\$ng t!at !e 0as s\$%7 and unde' t'eatment. T!e C!\$ef& 9 ?=& 'e"#sed on 16 ; %(e' 2015 t!at -)CT* a%%e"tBedC Bt!e A""#\$%ant>sC elma\$# as a fo'ma# 'e<uest of 'e+\$e0 of B!\$sC %ase. and as7ed !\$m& \$n t!\$s %onne%t\$on& to %!oose& (5 2 ; %(e' 2015& (et0een \$dent\$f\$ng an \$nde"endent "'a%t\$one' a%%e"ta(#e to (ot! t!e Un\$ted Nat\$ons 2 ed\$a# D\$'e'to' and !\$mse#f& o' !a+\$ng t!e %ase su(m\$tted to a 2 ed\$a# ?e+\$e0 @oa'd. 9e 0as ad+\$sed t!at fa\$#u'e to ma7e a %!o\$%e 0\$t!\$n t!e dead#& 0ou#d t'\$gge' t!e "'o%edu'es fo' a(andoned of "ost. @5 ema\$# of 2 ; %(e' 2015& t!e A""#\$%ant %!ose to !a+e !\$s %ase su(m\$tted to a 2 ed\$a# @oa'd.

D.)n #g!t of t!e A""#\$%ant>s %!o\$%e t!e C!\$ef& 9 ?=& u'ged !\$m& on 26 ; %(e' 2015& to su(m\$t t!e name of !\$s se#e'ted med\$a# "'a%t\$one' (5 0 ; %(e' 2015. T!e A""#\$%ant d\$d so on 27 ; %(e' 2015.

E. As of m\$d!De%em(e' 2015& t!e @oa'd !ad not 5et (een %on+ened& seem\$ng#5& at #east \$n "a't& as t!e "!5s\$%an des\$gnated (5 t!e A""#\$%ant !ad not %onta'ted t!e ; 'gan\$Aat\$on>s med\$a# se'+\$%e. @5 ema\$# of 22 De%em(e' 2015& t!e C!\$ef& 9 ?=& \$nfo'med t!e A""#\$%ant t!at !\$s %ont'a%t 0ou#d (e e\$ttended unt\$# 1 Janua'5 2016 -fo' t!e so#e "u"ose of %on%#ud\$ng t!e 2 ed\$a# @oa'd.. 9\$s a""o\$ntment 0as su(se<uent#5 'ene0ed aga\$n& "end\$ng %om"#et\$on of t!e @oa'd>s 'e+\$e0.

10. T!e 2 ed\$a# @oa'd& \$n%#ud\$ng t!e A""#\$%ant>s des\$gnated "!5s\$%an& !e#d sess\$on on 22 4e('ua'5 2016.)t 'ende'ed a 'e"o't dated 2E 4e('ua'5 2016& %om"#emented (5 an atta% !ment dated 5 2 a'! 2016& %on%#ud\$ng t!atF

a. T!e 6 August 2015 ad+\$%e of t!e e8te'na# med\$a# e+a#uat\$on 'e"o't 0as \$n%o' 'e%t fo' se+e'a# 'easonsG

(. The Applicant's stated intention to work should have stated the

Case No. UNDT/GVA/2016/045

Judgment No. UNDT/2017/045

0as st## s%7 and una(he to 0o'7. 9a+\$ng o(ta\$ned no 'e"#5& !e 'e\$te'ated !\$s

22. @5 ; 'de' No. 176 ,GVA/2016/ of 0 August 2016 t!e T'\$(una# 'e<usted addt\$ona# \$nfo'mat\$on f'om (ot! "a't\$es and \$n+\$ted t!em to f\$#e %omments& \$f an5& on \$ts \$ntent\$on to dete'm\$ne t!e %ase on t!e (as\$ of t!e O '\$tten su(m\$\$s\$ons.)n 'es"onse& t!e A""#\$%ant and t!e ?es"ondent made fu't!e' su(m\$\$s\$ons on 6 =e"tem(e' 2016 and 12 ; %to(e' 2016& 'es"e%t\$+e#5. None of t!em o(3e%ted to t!e %ase (e\$ng ad3ud\$%ated O\$t!out !o#d\$ng an o'a# !ea'sng.

Parties' submissions

2 . T!e A""#\$%ant>s "'\$n%\$"a# %ontent\$ons a'eF

a. T!e'e \$s no 2 ed\$a# @oa'd 'e'o't \$n 'e#at\$on to !\$s f\$tness to 'esume Oo'7 nest!e' on t!e date o'\$g\$na##5 set fo' t!e e8"\$'at\$on of !\$s %ont'a%t& 1 De%em(e' 2015& no' on t!e date of !\$s a%tua# se"a'at\$on& 14 2 a'! 2016G

(. Pu'suant to se%. 4.E of =T/A)/201 /1& !\$s a""o\$ntment s!ou#d !a+e (een e8tended fo' t!e 'ema\$ng of !\$s s\$%7 #ea+e ent\$#ement& s"e"\$f\$a##5& 7E da5s of s\$%7 #ea+e O\$t! !a#f "a5G

%. T!e A""#\$%ant %ommun\$%ated O\$t! t!e)CT* Adm\$n\$st'at\$on I 9 ?= \$n "a't\$%u#a' I s!o't#5 afte' !a+\$ng (een ad+\$sed of t!e non!'eneOa# of !\$s %ont'a%t& e8""ess#5 stat\$ng t!at !e Oas st## s\$%7. A med\$a# 'e"o't "'o+\$ded to t!e A""#\$%ant s!oOs t!at !e Oas una(#e to "e'fo'm Oo'7 s\$ne t!e da5 of !\$s se"a'at\$on unt\$# t!e f\$#ng of !\$s a""#\$%at\$onG and

d. T!e A""#\$%ant Oas not\$f\$ed on#5 one mont! #ate' ,14 A""#\$ 2016/ of t!e de%\$\$on to se"a'ate !\$m on 14 2 a'! 2016.

24. T!e ?es"ondent>s "'\$n%\$"a# %ontent\$ons a'eF

a. T!e A""#\$%ant d\$d not meet t!e 'e<u\$'ements fo' an e8tens\$on of a""o\$ntment unde' =T/A)/201 /1& O!\$% ! %an on#5 (e g'anted fo' a 'e't\$f\$ed \$##nessG

(. 4o' an \$##ness to (e 'e't\$f\$ed& as "e' =taff ?u#e 6.2,f/ and se%. 2.1 of =T/A)/2005/ ,=\$%7 :ea+e/& a staff mem(e' s!a## \$nfo'm !\$s o' !e'

en%um(e'ed& as "a't of t!e staff do0ns\$A\$ng "'o%ess \$n t!e f'ame0o'7 of t!e)CT*
%#osu'e st'ateg5. T!e'e \$s no \$nd\$%at\$on 0 !atsoe+e'& no' does t!e A""#\$%ant %a\$m&

Obligations of staff members

,f/ =taff mem(e's s!a## \$nfo'm t!e\$' su"e'+\$so's as soon as "oss\$(#e of a(sen%es due to \$##ness o' \$n3u'5. T!e5 s!a## "'om"t#5 su(m\$t an5 med\$a# %e'tf\$%ate o' med\$a# 'e"o't 'e<u\$'ed K

,g/ A staff mem(e' ma5 (e 'e<u\$'ed at an5 t\$me to

(. Oas f\$to 'esume 0o'7 "a'tit\$me as of 1 De%em(e' 2015 ,t!at \$s& afte' some e#e+en mont'!s on %e'tsf\$ed s\$%7 #ea+e/G and

%. Oas to "'og'ess\$+e#5 (u\$#dlu" f'om "a'tit\$me 0o'7 to 'esume fu##It\$me 0o'7 (5 1 2 a'% ! 2016.

4. T!e A""#\$%ant d\$sd not 'e"o't to 0o'7& e+en "a'tit\$me& at an5 "o\$nt. 9e stated (5 ema\$# t!at !e 0as st\$## s\$%7& (ut \$t a""ea's f'om t!e 'e%o'd t!at (et0een August 2015& 0!en t!e e8te'na# med\$%a# e+a#uat\$on 'e"o't 0as \$ssued& and 2 a'% ! 2016& !e "'esented no med\$%a# %e'tsf\$%ate o' med\$%a# 'e"o't su""o't\$ng !s asse't\$on& as staff 'u#e 6.2,f/ "'es%'\$(es. T!\$s not0\$t!stand\$ng& t!e ;'gan\$Aat\$on e8tended t!e A""#\$%ant>s a""o\$ntment at #east t0\$e afte' t!e effe%t\$+e date of a(o#st\$on of !s "ost.)t t!e'e(5 \$nte""'eted t!e a""#\$%a(#e #ega# f'ame0o'7 'at!e' fa+ou'a(#5 fo' t!e staff mem(e'& as !s s\$%7 #ea+e 0as no #onge' %e'tsf\$ed on a fu##It\$me (as\$ at t!at "o\$nt.

5. 2 o'eo+e'& g\$+en t!at t!e A""#\$%ant ostens\$(#5 o""osed to t!e %on#us\$ons of t!e e8te'na# med\$%a# e+a#uat\$on& t!e ;'gan\$Aat\$on ga+e !\$m t!e %!o\$e (et0een t!e t0o me% !an\$sms en+\$saged \$n staff 'u#e 6.2,3/ \$n %ase of a d\$"\$ute on a s\$%7 #ea+e de%ss\$on. @5 e8""#\$%t#5 o't\$ng fo' t!e 2 ed\$%a# @oa'd and des\$gnat\$ng t!e "'a't\$st\$one' to (e se#e%ted (5 t!e staff mem(e'& !e a%<u\$es%ed to t!\$s 0a5 fo'0a'd.

6. A 2 ed\$%a# @oa'd 0as %onst\$uted& %om""\$s\$ng one mem(e' se#e%ted (5 t!e staff mem(e'& as 'e<u\$'ed (5 staff 'u#e 6.2,7/. J!en \$t %ou#d f\$na##5 meet& \$t %ondu%ted \$ts o0n assessment of t!e A""#\$%ant>s state of !ea#t!.)n s"\$te of some %'st\$%ssm of t!e "'so' e8te'na# med\$%a# e+a#uat\$on& \$t endo'sed \$ts o+e'a## +\$e0 t!at t!e A""#\$%ant 0as f\$to 'esume 0o'7 on a "a'tit\$me (as\$ as f'om 1 De%em(e' 2015 and to %a'5 out !s dut\$es fu##It\$me as of 1 2 a'% ! 2016. T!\$s (e#ses t!e A""#\$%ant>s %ontent\$on t!at no 2 ed\$%a# @oa'd 'e"o't 0as \$ssued \$n 'e#at\$on to !s f\$tness to 'esume 0o'7 ne\$t!e' on t!e date o'\$g\$na##5 set fo' t!e e8"\$'at\$on of !s %ont'a%t& 1 De%em(e' 2015& no' on t!e date of !s a%tua# se'a'at\$on& 14 2 a'% ! 2016.)nstead& t!e 2 ed\$%a# @oa'd "'onoun%ed \$tse#f on t!\$s +e'5 "o\$nt& and deemed t!e A""#\$%ant f\$to fo' 0o'7 as of 1 2 a'% ! 2016. T!\$s so#+ed& \$n t!e negat\$+e& t!e <uest\$on as to 0!et!e' t!e A""#\$%ant 0as to %ont\$ne on s\$%7 #ea+e status at a## (e5ond t!at date.

41. The applicant of the above case has not established to the satisfaction of the Panel that the applicant was entitled to a hearing before the Panel.

Late notification of the decision to separate the Applicant

42. After the applicant's case file was closed, the Panel decided to separate the applicant from the respondent's case file and to determine the applicant's entitlement to a hearing before the Panel. The Panel noted that the Administrative Tribunal's decision of 14 February 2016, in which the Administrative Tribunal found that the applicant was entitled to a hearing before the Panel, was issued on 14 February 2016, nine months after the date of the applicant's appeal to the Panel.

43. The Panel noted that the respondent's appeal was filed against the Panel's decision of 14 February 2016, which was issued on 14 February 2016, nine months after the date of the applicant's appeal to the Panel. The Panel noted that the respondent's appeal was filed on 14 February 2016, nine months after the date of the applicant's appeal to the Panel. The Panel noted that the respondent's appeal was filed on 14 February 2016, nine months after the date of the applicant's appeal to the Panel.

Case No. UNDT/GVA/2016/045

Judgment No. UNDT/2017/045

46.