




**UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D'APPEL DES NATIONS UNIES**

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Judgment No. 2022-UNAT-1218



**Federico Giuseppe Galati  
(Respondent/Applicant)**  
**v.**  
**Secretary-General  
of the World Meteorological Organization  
(Appellant/Respondent)**

**JUDGMENT**

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Before: Judge John Raymond Murphy, Presiding  
Judge Graeme Colgan  
Judge Dimitrios Raikos

Case No.: 2021-1535

Date: 18 March 2022

Registrar: Weicheng Lin

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Counsel for Federico Giuseppe Galati: Brandon Gardner, OSLA  
Counsel for Secretary-General of the WMO: Daniel Trup

**JUDGE JOHN RAYMOND MURPHY, PRESIDING.**

1. Federico Giuseppe Galati (Mr. Galati), a former staff member of the World Meteorological Organization (WMO), filed an application with the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) challenging the decision of the Administration to abolish his post without making good faith efforts to place him in a suitable alternative post.

2. On 26 February 2021, the Dispute Tribunal issued Judgment No. UNDT/2021/014,<sup>1</sup> finding the decision to terminate Mr. Galati's permanent appointment unlawful on account that the Administration had failed to consider his application for one of the posts he had applied for on a preferred non-competitive basis.

3. The Secretary-General of the WMO has now filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal or UNAT) arguing *inter alia* that the UNDT erred in law and fact in determining that the Administration had failed to consider Mr. Galati's candidacy for one of the posts he had applied on a preferred non-competitive basis

4. For the reasons set out below, we uphold the appeal.

**Facts and Procedure**

5. Mr. Galati commenced employment in IT services within the WMO in 2005. Prior to his separation from service, on 3 August 2020, he held a permanent appointment and served as a P-3 Web Officer focusing primarily on maintaining internet and web services and associated online tools.

6. Between 3 and 14 June 2019, the governing body of WMO, the World Meteorological Congress (Congress), passed a series of resolutions directing the WMO Secretary-General to implement reforms both to the structure of the Secretariat and the manner in which the Organization delivers services to its member states. The Organization then underwent a process of restructuring involving consultation with staff members and the Staff Association through a Joint Consultative Committee. A review of posts and their requirements was undertaken, and the Administration also assessed the ongoing requirements for IT-related services since much of WMO's IT functions had already been outsourced.

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<sup>1</sup> *Galati v. Secretary-General of the World Meteorological Organization*, Judgment No. UNDT/2021/014 dated 26 February 2021 (Impugned Judgment).

7. On 4 December 2019, Mr. Galati was notified that his post of P-3 Web Officer had been identified for possible abolition. Three months later, on 6 March 2020, Mr. Galati was notified that as a result of the revised structure, his post would be abolished.

8. On 25 March 2020, the Chief of Human Resources Section informed Mr. Galati that should he apply for any posts within WMO, the Administration would alert the relevant hiring managers to ensure that his application would be given due consideration based on his status.

9. Between 6 March 2020 and 30 July 2020, Mr. Galati applied for the following ten posts within WMO on the following dates. These posts were: (i) Coordination Officer, P-3 post, on 11 March 2020; (ii) Country Profile Database Regional Coordinator (CPDB Position), P-3 post, on 27 March 2020; (iii) Procurement Officer, P-3 post, on 27 April 2020; (iv) Risk and Quality Management Officer, P-3/P-4 post, on 6 May 2020; (v) Associate Business Intelligence Analyst, P-2 post, on 10 May 2020; (vi) Scientific Editor (English principal language), P-2/P-3 post, on 18 May 2020; (vii) Conference Services Officer, P-3 post, on 21 June 2020; (viii) Associate Conference Services Officer, P-2 post, on 21 June 2020; (ix) Call for Candidates for Roster for Communications Experts in Africa, the Caribbean and the Pacific, on 10 July 2020; and (x) Associate Project Communications Officer, P-2 post, on 30 July 2020.

10. All the posts Mr. Galati applied for were unrelated to his previous work experience or roles with the exception of the CPDB Position for which he applied on 27 March 2020. On 5 May 2020, Mr. Galati was listed amongst other candidates for further assessment based on a review of the minimum requirements for the CPDB Position. This initial assessment was premised on consideration of Mr. Galati's Personal History Profile (PHP), his status as a permanent appointment holder and the fact that he had some of the relevant IT skills necessary for the CPDB Position.

11. As part of the further assessment, selected candidates were required to partake in a recently introduced preliminary online video pre-screening process, named Sonru, intended to test their technical knowledge about WMO related job requirements and to enable hiring managers to narrow the number of candidates to ensure that only those who met the job specifications and suitability for the CPDB Position would be selected for the formal shortlisting and competitive interview process. According to the Secretary-General of the WMO, the Sonru process formed part of the candidate screening prior to the competitive

review of candidates and was considered by the Administration as the final element in the shortlisting process. This preliminary assessment did not rank any of the candidates against each other but provided an opportunity for candidates to demonstrate how their experience and knowledge met the qualifications for the CPDB Position. Only candidates who passed Sonru were considered as having met all the requirements of the position and were invited for the competitive interview process.

12. Mr. Galati took part in the Sonru preliminary video screening in June 2020. He failed the test as he did not demonstrate the necessary skills and competence for the post. The hiring manager determined that Mr. Galati although “being a WMO staff member did not elaborate on the WMO decision making processes and the community platform [and] was not able to relate the data collection and availability to decision-making of the WMO constituent bod[i]es and planning and monitoring processes to the country profile data-base”. The hiring manager concluded that Mr. Galati failed to demonstrate his suitability for the CPDB Position and his candidacy was not considered further. Mr. Galati did not challenge his non-selection for the CPDB Position.

13. During this period, due to the economic crisis facing WMO as a consequence of the fall in member state contributions, the Secretary-General of the WMO issued a package of measures designed to protect the salary of existing staff members. As part of these measures, the Secretary-General of the WMO announced the suspension of all recruitment processes then ongoing. As a result, the remaining posts for which Mr. Galati had applied for were frozen.

14. On 27 August 2020, Mr. Galati filed an application with the UNDT challenging the decision of the Administration to abolish his post without making good faith efforts to place him in a suitable alternative post (Contested Decision). Four days later, on 31 August 2020, Mr. Galati was separated from service.

15. On 2 February 2021, the UNDT issued an Order on Case Management requesting an update on the employment status of Mr. Galati.<sup>2</sup> On 10 February 2021, Mr. Galati submitted his reply to the Order indicating that since 15 January 2021, he had secured temporary employment for one year at a salary of approximately USD 9,920 per month. On 11 February 2021, the Secretary-General of the WMO submitted his response, confirming

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<sup>2</sup> *Galati v. Secretary-General of the World Meteorological Organization*, Order No. 14 (GVA/2020).

that Mr. Galati had not secured any position within WMO but indicating that according to Mr. Galati's LinkedIn profile, it appeared that he had regained employment in November 2020.

16. On 26 February 2021, the UNDT issued its Judgment in which it found that the Administration had not complied with WMO Staff Rule 192.1(b), which provides that permanent appointment holders whose posts are abolished shall generally be retained in preference to staff members holding other types of appointments provided a suitable post is available in which the permanent appointment holder's services can be effectively utilized. The UNDT accepted that Mr. Galati did not meet the requirements of the other positions for which he had applied. However, it held that the Administration had failed to consider Mr. Galati's suitability on a preferred non-competitive basis considering his competence, integrity and length of service, as well as other factors such as nationality and gender, in relation to the CPDB Position. Consequently, the UNDT held that the decision to terminate Mr. Galati's permanent appointment was unlawful. It reasoned as follows:<sup>3</sup>

... The Applicant does not dispute his non-selection for the posts other than the CP[DB]. Having reviewed the Applicant's personal history form and the post requirements for the posts of Coordination Officer and Procurement Officer, the Tribunal is satisfied that the Applicant clearly did not meet the requirements for these posts and the Administration's decision not to place him against these posts was reasonable.

... With respect to the post of CPDB, the Administration admits that the Applicant met the requirements for the post as he was shortlisted. The Administration further admits that the Applicant was required to sit through a screening exercise along with all the other pre-screened candidates concerning technical questions related to the job opening.

... Therefore, by its own admission, the Administration did not consider the Applicant's suitability on a preferred non-competitive basis considering his competence, integrity and length of service, as well as other factors such as nationality and gender. The Administration hence failed to follow the procedure set out in *Timothy*.

... In light of the above, the Tribunal finds that the decision to terminate the Applicant's permanent appointment was unlawful.

17. The UNDT ordered rescission of the decision, *in lieu* compensation in the amount of two years' net base salary and compensation of USD 3,000 for moral damages.

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<sup>3</sup> Impugned Judgment, paras. 19 – 22.

18. The Secretary-General of the WMO filed his appeal on 9 March 2021, and Mr. Galati filed his answer on 7 May 2021.

### **Submissions**

#### **The WMO Secretary-General's Appeal**

19. The Secretary-General of the WMO contends that upon initial assessment, Mr. Galati did not meet all the requirements for the CPDB Position for which he had applied, and the Administration made good faith efforts to protect his status as a permanent appointment holder by advancing him as far as possible in the selection process for the CPDB Position, being the only suitable position for which he could apply.

20. The WMO Secretary-General contends further that Mr. Galati manifestly failed to demonstrate that he met the requirements in full for the CPDB Position when given the opportunity to do so. Staff Rule 192.1(b) of the WMO Staff Regulations and Rules explicitly requires that in all cases due regard must be given to relative competence, integrity and length of service of a redundant staff member with an indefinite appointment seeking appointment to a suitable position.

21. The WMO Secretary-General contends also that the UNDT erred in holding that the Administration had admitted that Mr. Galati met the requirements for the position when it shortlisted him and was not permitted to subject Mr. Galati to Sonru to assess his suitability. Accordingly, the UNDT erred in essentially requiring the Administration to select a candidate who had failed to demonstrate the technical requirements for the post. The WMO Secretary-General submits that the stance of the UNDT is erroneous and practically untenable.

22. The Secretary-General of the WMO thus maintains that the absence of other suitable positions and Mr. Galati's lack of relative competence and the skills necessary to carry out the tasks of the CPDB Position effectively meant that the Administration had no duty to consider him for the CPDB Position on a preferential basis.

23. The Secretary-General of the WMO submits furthermore that the UNDT erred in law in relation to awarding Mr. Galati two years' net base salary in compensation *in lieu* of rescission and USD 3,000 in moral damages. The UNDT failed to provide any reasoning or methodology for its computation of the quantum of compensation ordered.

24. The WMO Secretary-General accordingly requested UNAT to find that the UNDT erred on questions on facts and law and vacate both the Judgment and award of compensation in its entirety.

**Mr. Galati's Answer**

25. Mr. Galati submits that the UNDT correctly concluded that once he had been shortlisted for the CPDB Position after being assessed as meeting all mandatory and desirable criteria, he should have been considered for the post on a preferred non-competitive basis

26. Mr. Galati argues that the Administration misconstrued the fact that he was shortlisted for the CPDB Position, by stating that he had been “initially shortlisted for preliminary assessment”. As the Hiring Manager’s Manual (Manual for the Hiring Manager on the Staff Selection System) makes clear, shortlisting occurs after a staff member is assessed to meet all criteria for a post, so using the phrase “initially shortlisted for preliminary assessment” obscures what should be a relatively straightforward process, whereby the hiring manager compares the applicant’s PHP against the vacancy announcement to determine whether the candidate meets all relevant criteria.

27. Consequently, Mr. Galati argues that once the Administration determined that he met all mandatory and desirable criteria for the CPDB Position – which is evidenced by his being shortlisted for the CPDB Position – it was obliged to consider him for the CPDB Position on a preferred or non-competitive basis. In essence, noting that Mr. Galati was a permanent appointment holder facing termination, the Administration was required to either place him in the CPDB Position at that stage or, if there was more than one permanent appointment holder competing for the post, that any further assessments be conducted only against those other permanent appointment holders. Instead, it violated the established jurisprudence by requiring Mr. Galati to sit for the Sonru preliminary online video pre-screening process – against some candidates with fixed-term appointments – despite already determining that he met all mandatory and desirable criteria.

28. As such, Mr. Galati submits the UNDT did not err in law or fact in determining that the Administration failed in its obligations by terminating his permanent appointment and separating him instead of placing him in the CPDB Position.

29. With regard to the quantum of *in lieu* compensation, Mr. Galati argues that as he held a permanent appointment and had a reasonable expectation that he would continue in the WMO's employ for at least the next two years, the tribunal did not err in awarding him 24 months' net base salary as *in lieu* compensation, should the WMO decide not to rescind his unlawful termination and return him to work.

30. Regarding the award of USD 3,000 in moral damages, Mr. Galati contends that, as he had provided medical evidence of harm, the UNDT did not err in law by awarding this remuneration.

### **Considerations**

31. The issue to be determined in this appeal is whether the UNDT erred in ruling that the termination of Mr. Galati's permanent appointment was unlawful because he did not receive proper consideration as a permanent appointee and because the Administration failed to act fully in compliance with the relevant legal provisions.

32. Staff Regulation 9.2 of the WMO Staff Regulations and Rules provides amongst other things that the WMO Secretary-General may terminate the appointment of a staff member who holds a permanent appointment if the necessities of the service require abolition of the post or reduction of the staff. Further, the WMO Secretary-General may also terminate a permanent appointee if such action would be in the interests of the good administration of the Organization and in accordance with the standards required under Staff Regulation 4.2. The standards under Staff Regulation 4.2 govern the appointment, transfer or promotion of staff members but in terms of Staff Regulation 9.2, those standards apply *mutatis mutandi* to the abolition of posts and the reduction of staff. The applicable standards enshrined in Staff Regulation 4.2 are "the necessity of securing the highest standards of efficiency, competence and integrity [and] the importance of recruiting and maintaining the staff on as wide a geographical basis and gender balance as possible".

33. Staff Rule 192.1(b) of the WMO Staff Regulations and Rules sets out the criteria for preference retention in the abolition of posts and reduction of staff. It reads:

If the necessities of the service require that the appointment of staff members be terminated as a result of abolition of posts or reduction of staff, staff members with permanent appointments shall as a general rule be retained in preference to those holding other appointments, subject to the availability of suitable posts in which their services can



be effectively utilized. Due regard shall, however, be given to relative competence and integrity, to length of service, and to nationality from the point of view of overall geographical distribution, with the proviso that nationality shall not be a consideration in the case of staff members with more than five years' service.

34. The Administration thus has broad discretion to reorganize its operations and departments to meet changing needs and economic realities. An international organization necessarily has the power to restructure some or all of its departments or units, including abolishing certain posts. This Tribunal therefore will not interfere with a genuine organizational restructuring even though it may have resulted in the loss of employment of staff members. However, the purpose of Staff Rule 192.1(b) of the WMO Staff Regulations and Rules is to mitigate the effects of retrenchment on staff members holding non-temporary appointments. Staff Rule 192.1(b) of the WMO Staff Regulations and Rules specifically sets forth a policy of preference for retaining staff members with continuing appointments and creates an obligation on the Administration to make reasonable efforts to find suitable placements for a redundant staff member whose post has been abolished. Failure to accord to the displaced staff member the rights conferred under said provisions will constitute a material irregularity.

35. The application of Staff Rule 192.1(b) of the WMO Staff Regulations and Rules requires a process in terms of which staff members encumbering positions, which are to be abolished and who hold indefinite appointments, will be matched against suitable posts according to a set of criteria relating to the staff members' suitability for such posts. Staff Rule 192.1(b) of the WMO Staff Regulations and Rules explicitly requires that in all cases due regard must be given to relative competence, integrity and length of service. Skills, integrity and length of service are thus paramount criteria. Moreover, Staff Rule 192.1(b) of the WMO Staff Regulations and Rules sensibly provides that the preferential criteria are subject to the qualification that suitable posts be available. In other words, the criteria of skills retention and favoring staff members holding continuing appointments can only be implemented if there are suitable posts available that permit the WMO to achieve this policy. In the absence of suitable positions, or if the incumbent of the abolished position lacks relative competence or the skills necessary to carry out the tasks of the identified suitable post effectively, he or she may be separated in accordance with applicable procedures. As we stated in *Timothy*,<sup>4</sup> if the redundant staff member is not fully competent to perform the core

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<sup>4</sup> *Timothy v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-847, para. 38

functions and responsibilities of a position, the Administration has no duty to consider him or her for the position.

36. It is undisputed on appeal that the only post available for which Mr. Galati was suited in accordance with reasonable suitability criteria was the CPDB Position for which he applied on 27 March 2020. The UNDT held that the Administration's decision not to consider Mr. Galati for the other positions for which he applied was reasonable on the grounds that he did not meet their requirements.<sup>5</sup> There is no cross-appeal against that finding. Moreover, Mr. Galati has made no challenge to the decision of the WMO Secretary-General to freeze appointments to other posts for which he applied. Mr. Galati, as mentioned, also made no challenge to his non-selection for the CPDB Position.

37. The primary duty of the Administration in terms of Staff Rule 192.1(b) of the WMO Staff Regulations and Rules is to ensure that staff members holding permanent appointments shall "as a general rule be retained in preference to those holding other appointments, subject to the availability of suitable posts in which their services can be effectively utilized". The WMO Secretary-General maintains that the Administration made good faith efforts to protect Mr. Galati's status as a permanent appointment holder by advancing him as far as possible in the selection process for the CPDB Position, but Mr. Galati manifestly failed to demonstrate that he met the requirements in full for the position when given the opportunity to do so.

38. The UNDT held that the Administration had acted unlawfully because it had admitted that Mr. Galati met the requirements for the position when it shortlisted him and thus was not permitted to subject Mr. Galati to the Sonru video pre-screening process. In the opinion of the UNDT, the Administration accordingly did not consider Mr. Galati's suitability on a preferred non-competitive basis to which as a holder of a permanent appointment, he was entitled. Mr. Galati aligns with that view.

39. There is no basis for the UNDT's finding that the mere shortlisting of Mr. Galati meant that he met all the requirements of the CPDB Position and was entitled to be appointed to it on a preferential and non-competitive basis. The WMO Secretary-General's submissions before the UNDT stated only that Mr. Galati had been invited to take part in a preliminary online video screening as part of the shortlisting process. On appeal, the WMO Secretary-General submits that the process of completing the shortlist and assessing the

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<sup>5</sup> Impugned Judgment, para. 19.

eligibility and suitability for the post was undertaken using Sonru. The CPDB Position required at a minimum that candidates demonstrate, for example, an understanding of WMO planning and decision-making and implementation processes from the view of the Secretariat and members' organizations. These minimum requirements were not readily demonstrable in Mr. Galati's PHP upon which his initial shortlisting was based. Each candidate in Sonru was assessed to ensure that they were able to demonstrate the requirements for the post. Each candidate's success or failure was not based on a competition with other candidates but rather on whether they were able to demonstrate their own independent understanding and experience of the technical requirements for the post. The Sonru platform was a process by which the Administration determined the suitability and competence of the candidates vis-à-vis the technical requirements of the post.

40. But even had Mr. Galati been shortlisted prior to the Sonru evaluation, as he argues, that alone did not preclude the Administration from thereafter using the Sonru to assess whether his services could be effectively utilized and to determine if he was suitable for appointment to the post on the basis of his relative competence. Had Mr. Galati passed the Sonru test, he may well have been selected for the post on a non-competitive/priority basis, having demonstrated his eligibility and suitability in the technical requirements of the post. However, this was not the case as he failed the assessment.

41. Staff Rule 192.1(b) of the WMO Staff Regulations and Rules makes it abundantly clear that the preference afforded to redundant staff members who hold indefinite appointments applies only to those who have relative competence and skills and are thus able to use their skills effectively in the identified suitable post. Once a redundant staff member has applied for a post, due regard must be given by the Administration to the relative competence, integrity and length of service of the staff member. Only where a permanent appointment holder meets the skill and competence requirements for the identified suitable post will he or she be given due consideration for recruitment to that post. When permanent appointment holders, sitting on abolished posts, have been determined not suitable, then a non-permanent staff member who applied for the post can be considered. Priority consideration is premised on candidates first establishing themselves as eligible and suitable for the position. Only then does priority consideration operate to permit their selection. To hold otherwise would require preference to be given to redundant staff members holding permanent appointments despite their lack of skills to effectively perform the tasks of the identified post. That would indeed lead to an untenable and unjustifiable situation, contrary

to the requirements of Staff Regulation 4.2 of the WMO Staff Regulations and Rules to secure “the highest standards of efficiency, competence and integrity”.

42. The UNDT, therefore, quite evidently erred in holding that the inclusion of Mr. Galati in the shortlist was akin to an admission by the Administration that he met all the requirements for the CPDB Position and that his separation from service was unlawful for that reason alone because he should have been appointed preferentially to that post.

43. WMO consists of 307 staff members. Of those staff members, 208 are of the professional grade. Consequently, there are only a few P-2 and P-3 posts that exist. The available posts are often of technical nature and in this instance were not aligned with Mr. Galati’s professional background. As mentioned earlier, Mr. Galati did not meet any of the requirements for 9 of the 10 posts for which he applied. His experience related solely to IT matters, and he had no experience, for example, in relation to the posts of Procurement Officer, Risk Quality Management Officer and Associate Business Intelligence Officer. This is not disputed. The CPDB Position, on the other hand, was IT in nature and relevant as it related to the advancement of the WMO Country Profile Database. However, the post required additional skills such as experience in planning and managing enterprise IT projects as well as having an understanding of WMO planning, decision-making and implementation processes. Mr. Galati’s PHP indicated that he had limited understanding and experience of issues relating to contract and vendor management and WMO planning, decision-making and implementation processes. The WMO Secretary-General was also of the view that Mr. Galati lacked experience of communicating to member states on the application of different administrative procedures and appeared unable to evidence any conceptual understanding of the relationship between technical departments, regional offices and WMO members regarding the need for an operational database. All these technical requirements were key aspects of the job qualification demanded and were the subject of the Sonru preliminary evaluation, which Mr. Galati failed.

44. Thus, in this case, relative competence, skills and suitability trumped the right to preference. The position taken by the UNDT and Mr. Galati is untenable because it essentially would require the Administration to select a candidate who had failed to demonstrate the technical requirements for the post, simply on the basis of his shortlisting.

45. The appeal must accordingly be upheld. The Administration has demonstrated that all reasonable efforts were made to consider Mr. Galati for available suitable posts in which his services could be effectively utilized.

**Judgment**

46. The appeal is upheld, and Judgment No. UNDT/2021/014 is reversed.

Original and Authoritative Version: English

Dated this 18<sup>th</sup> day of March 2022.

*(Signed)*

Judge Murphy, Presiding  
Cape Town, South Africa

*(Signed)*

Judge Colgan  
Auckland, New Zealand

*(Signed)*

Judge Raikos  
Athens, Greece

Entered in the Register on this 6<sup>th</sup> day of May 2022 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar