



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

Judgment No. 2022-UNAT-1225

**Sarah Coleman
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

Judgment

Before:	Judge Dimitrios Raikos, Presiding Judge Sabine Knierim Judge Martha Halfeld
Case No.:	2021-1544
Date:	18 March 2022
Registrar:	Weicheng Lin

Counsel for Appellant:	Edward Patrick Flaherty
Counsel for Respondent:	Francisca Lagos Pola

JUDGE DIMITRIOS RAIKOS, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNDT/2021/011, rendered by the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) on 23 February 2021, which dismissed the Appellant's application contesting the decision to place her on Special Leave Without Pay (SLWOP) effective 1 May 2018.
2. For the reasons set out below, we dismiss the appeal and affirm the UNDT Judgment.

Facts and Procedure

3. Ms. Coleman joined the Pakistan Country Office of the United Nations Children's Fund (UNICEF PCO and UNICEF, respectively) in September 2014 as Chief of the Child Protection Section, at the P-5 level. She held a fixed-term appointment that expired on 30 September 2018. The Government of Pakistan granted visas to Ms. Coleman for the following periods: 8 September 2014 to 7 September 2015; 15 October 2015 to 13 December 2015; and 28 January 2016 to 11 October 2017. Ms. Coleman was also issued with a Ministry of Foreign Affairs (MOFA) accreditation card that was last renewed for the period from 4 August 2015 to 30 September 2016.
4. On 28 September 2016, before the accreditation card expired, the UNICEF PCO sent an e-mail to Ms. Coleman requesting her to complete the renewal form and return it with her passport photographs. Ms. Coleman only returned the requested documentation in July 2017. On 1 August 2017, the Administration, on behalf of Ms. Coleman, submitted the renewal request of her accreditation card to the MOFA in Islamabad. Her request was denied, and she was advised by the MOFA to leave Pakistan, which she did on 26 August 2017.
5. In October 2017, while Ms. Coleman was in the United Kingdom, her place of residence, she personally approached the Pakistan High Commissioner in London and obtained an assignment visa for another three months, namely from 13 October 2017 to 12 January 2018, for her to return to Islamabad. She returned to Pakistan on 19 October 2017.
6. On 16 January 2018, the MOFA in Islamabad informed the UNICEF PCO that it would not renew Ms. Coleman's accreditation card and expressly requested that she be advised to leave Pakistan on expiry of her visa. An exit visa was approved and she was required to depart Pakistan no later than 10 February 2018. On 6 February 2018, the UNICEF PCO received a

Note Verbale from the MOFA in Islamabad referring to a letter dated 24 January 2018 that Ms. Coleman had addressed to it in which she tendered a personal apology for “effecting several [MOFA] protocol breaches in the recent past”.

7. By letter dated 7 February 2018, the Director, Division of Human Resources (DHR), UNICEF, informed Ms. Coleman of the decision to place her on Special Leave With Full Pay (SLWFP), effective the date of her departure from Pakistan, for an initial period of one month. On 9 February 2018, Ms. Coleman departed Pakistan at the request of the Government. Ms. Coleman’s placement on SLWFP was further extended until 30 April 2018.

8. On 14 April 2018, Ms. Coleman was offered a temporary reassignment to the P-4 position of Child Protection Specialist, with remuneration at the P-5 level, in South Sudan, which Ms. Coleman refused. By letter dated 20 April 2018, the Director, DHR, UNICEF, informed Ms. Coleman *inter alia* of the decision to place her on SLWOP as of 1 May 2018 until the expiry of her appointment if no other available positions at the P-5 level arose in the meantime.

9. On 24 April 2018, Ms. Coleman requested management evaluation of the decision to place her on SLWOP. On 14 June 2018, the decision to place Ms. Coleman on SLWOP was upheld.

10. On 5 September 2018, Ms. Coleman filed an application with the UNDT.

11. On 23 February 2021, the UNDT issued Judgment No. UNDT/2021/011 dismissing Ms. Coleman’s application in its entirety.

12. The UNDT rejected Ms. Coleman’s claim that the decision to place her on SLWOP was unlawful because UNICEF had failed in its responsibility to ensure the renewal of her visa and accreditation card, which could have prevented her expulsion from Pakistan. The UNDT found that it was Ms. Coleman’s own failure to timely submit the required documents, i.e., the renewal form and passport photographs, that prevented the Administration from completing the renewal request process and obtaining the timely renewal of her accreditation card. While the Administration contacted Ms. Coleman prior to the expiration of her accreditation card in September 2016, she only provided the requested documentation for the renewal in July 2017, almost a year after the expiry of her accreditation card. Moreover, following her return to Islamabad in October 2017, the Organization made good faith efforts and took at least 11 separate actions to secure the renewal of her visa and accreditation card, unfortunately without success.

13. The UNDT also found no merit in Ms. Coleman’s claim that UNICEF had failed to send a formal apology to the Government of Pakistan, which, she alleged, negatively impacted her chances to have her accreditation card renewed. The UNDT noted that while Ms. Coleman took the initiative to draft a letter of apology on behalf of UNICEF to the Government of Pakistan for her protocol breaches, UNICEF was not obliged to send said formal apology to the Government of Pakistan. Further, the evidence showed that Ms. Coleman sent later on to the MOFA, on her own volition and apparently without prior consultation with UNICEF, a letter personally apologizing for “affecting several [MOFA] protocol breaches in the recent past” and admitting to “personal failings” with regard to her accreditation card and visa renewal.

14. The UNDT found that the Organization bore no responsibility on this initiative and, therefore, could not be held accountable for the outcome of her actions. The UNDT found that, as an international staff member working in UNICEF PCO, Ms. Coleman should have known that a valid visa and accreditation card were conditions *sine qua non* for her to stay in Pakistan and be able to perform her professional duties. Since these conditions were not met and she had to leave Pakistan at the explicit request of the Government, the Organization had no other solution but to consider alternative administrative arrangements, such as placing her on SLWFP or SLWOP.

15. The UNDT dismissed Ms. Coleman’s contention that her request to work remotely until the expiration of her contract had been unfairly denied. The nature of her functions was not compatible with working remotely and, therefore, the Organization was not in a position to grant her request. The UNDT also dismissed Ms. Coleman’s claim that UNICEF had failed to properly reassign her to a position commensurate with her P-5 grade, competence, skills and experience. UNICEF was under no obligation to reassign Ms. Coleman, who by her own admission had caused her expulsion from the host country. Nevertheless, the Organization did offer her a temporary reassignment which Ms. Coleman rejected. The Organization had no obligation to find Ms. Coleman another assignment once she refused the position in South Sudan not only because the circumstances of her departure from Pakistan were self-created, but also because she had informed the then Deputy Representative UNICEF PCO that she was not interested in continuing working with UNICEF beyond the expiration of her fixed-term appointment.

16. The UNDT found that, in view of the particular circumstances of the present case, namely that Ms. Coleman placed herself in a situation in which she could no longer perform her duties in Pakistan; she rejected the temporary assignment offered to her in South Soudan; and she was not interested in working in UNICEF beyond the expiry of her appointment, the decision to place her

on SLWOP was a proper exercise of discretion. Indeed, it was reasonable to conclude that it was not in the interest of the Organization to keep Ms. Coleman on pay status whilst not performing work for the Organization until the expiry of her fixed-term appointment on 30 September 2018.

17. Finally, the UNDT found that Ms. Coleman had failed to substantiate her allegations that the contested decision was the result of abuse of authority, bias, prejudice and harassment against her following a complaint she had filed in March 2018 against her former supervisor, the then Deputy Representative, UNICEF PCO. The UNDT found that Ms. Coleman had failed to prove that a causal link existed between her complaint and the contested decision. In fact, the decision to place her on SLWOP was not taken by her former supervisor but by the UNICEF Director, DHR at Headquarters in New York, who was not the subject of her complaint. Similarly, Ms. Coleman had not provided any evidence to substantiate her allegations that the contested decision was a veiled or disguised disciplinary measure.

18. Ms. Coleman filed an appeal with the Appeals Tribunal on 12 April 2021, and the Secretary-General filed his answer on 14 June 2021.

Submissions

Ms. Coleman's Appeal

19. The UNDT erred in finding that the Administration had made reasonable efforts to ensure Ms. Coleman's proper accreditation or to ensure she was fully aware of the requirements. The UNDT considered the 28 September 2016 e-mail to Ms. Coleman to be sufficient evidence that UNICEF duly requested the necessary documents from her, and that Ms. Coleman's provision of the requested documentation by July 2017 evidenced her failure to comply. However, that e-mail came a mere two days before the card's expiration, indicating that the Administration did not perform its own obligations in ensuring compliance with certifications for its staff. Furthermore, there was no communication from UNICEF about the renewal until July 2017, when Ms. Coleman submitted her documents.

20. Ms. Coleman had a valid visa until 11 October 2017, and she was unaware of the importance of the MOFA accreditation card of which apparently UNICEF was also unaware, as it failed to inform her of the need to renew it until two days before it was due to expire. The matter of her MOFA accreditation card renewal came up because she was in the process of renewing her visa extension application, and she believed the MOFA accreditation card was only required in support

of said application, not that it was a stand-alone document upon which approval of her visa hinged. Having been allowed to live and work in Pakistan as a United Nations official on a business visa from 29 September 2014 to 4 August 2015 without a MOFA accreditation card, it was a reasonable conclusion to draw, especially as no one in the PCO had informed her about protocol matters.

21. The UNDT failed to consider that the “efforts” made by the Administration occurred largely after Ms. Coleman returned to Pakistan in October 2017 by way of her own initiative; that if the Administration had genuinely made efforts to support her visa status, she would not have had to write a personal letter of apology; that the Pakistani Government had indicated it needed/expected an apology in order to approve her visa, but the Organization declined to provide one; and that in the UNDT pleadings, it claimed that it had issued one, and then later admitted it did not.

22. The UNDT found, without further explanation, that UNICEF had no obligation to send a formal apology to the Government of Pakistan and that it bore no responsibility for Ms. Coleman’s letter of apology. It also determined that Ms. Coleman should have known that a valid visa and accreditation card were conditions of her employment, and that, since these conditions were not met and she had to leave Pakistan, UNICEF had no choice but to place her on SLWOP. Yet, she learned from her colleague that one of the reasons that the Pakistan Government was unwilling to issue visas for Ms. Coleman and others was the Organization’s failure or refusal to submit a letter of apology for breaches in protocol.

23. Under the specific direction of the former Country Representative, Ms. Coleman prepared her own letters of apology, which she first shared with the PCO Chief of Operations and later with the (acting) PCO Chief of Operations, neither of which was inexplicably ever sent, despite being informed by the Office of Internal Audit and Investigations (OIAI) that the second apology letter would be sent. Thus, there was, in fact, an obligation on UNICEF to send a letter as per the expectations of the Pakistani Government, the expectation that the Administration would facilitate the obtainment of visas for its staff members, and the expectations OIAI had itself set.

24. The UNDT’s finding that UNICEF had no choice but to place Ms. Coleman on SLWOP is untrue. It had other avenues available to it, including placing her in another position commensurate with her skills, grade, qualifications, and experience, or allowing her to work remotely. The UNDT never explained what evidence it reviewed regarding the nature of Ms. Coleman’s work that would not allow her to work remotely. Ms. Coleman had worked remotely without issue from 26 August 2017 until her return to the PCO on 19 October 2017. Indeed, another

Chief of Section in the PCO who had also been expelled for visa irregularities around this time was allowed to work remotely, as were two colleagues expelled along with Ms. Coleman until all three were either promoted or appointed to a comparable role elsewhere.

25. The UNDT incorrectly determined that the Organization was not obligated to reassign her to a post commensurate with her grade, skills, qualifications, and experience. Ms. Coleman was not required to accept the post in South Sudan as it was below her own grade, qualifications, expertise, competence, and skills. It was necessarily a demotion and besides, there were other posts available for which she was eligible and for which she applied, without success. Indeed, she was given assurances by DHR that it would continue to search for available positions at the P-5 level. Further, even if Ms. Coleman did not wish to continue working for UNICEF following the end of her contract, that was her prerogative, and it did not mean she should have simply been left to flounder for five months while still an international civil servant under contract.

26. The UNDT appears to have accepted and condoned that the Organization sought to punish Ms. Coleman by placing her on SLWOP, finding that it was reasonable to conclude that it was not in the interest of the Organization to keep her on pay status whilst not performing work until the expiry of her fixed-term appointment because she “placed herself” in a situation where she could no longer perform her duties; she rejected the South Sudan post; and she expressed that she was not interested in working for UNICEF following the expiry of her contract. Even if all the above were true, which Ms. Coleman argues it was not, it is not for the Organization to punish a staff member through administrative actions such as placing her on SLWOP or any other retaliatory act. If Ms. Coleman had committed any sort of wrongdoing, it was incumbent upon the Administration to follow proper disciplinary action against her, not to simply mete out a punishment because of a personal aversion to her character or her decisions. None of the above cited actions were subject of a disciplinary process. UNICEF was not at liberty to punish Ms. Coleman in this manner, nor was the UNDT within its rights to sanction said punishment.

27. Ms. Coleman requests UNAT to reverse the findings of the UNDT rejecting her UNDT application, and to order the relief she requested before the UNDT, including to set aside the decisions of 20 April and 14 June 2018 placing her on SLWOP with full retroactive effect; order UNICEF to pay her the equivalent of her salary including all benefits, entitlements, step increases, pension contributions, etc. that she would have earned from the date she was placed on SLWOP through the date of the expiration of her contract, had she not been placed on special leave; order UNICEF to pay her USD 50,000 for the loss of future income/benefits due to the detrimental effect

on her career, including moral damages for having unlawfully placed and maintained her on SLWOP for a prolonged period, thus causing her prolonged distress, hurt, humiliation, and injury to her reputation, dignity, and self-respect; reinstate her to a position corresponding to her grade, skills, training, and experience with an additional one-year fixed-term contract; and order compensation for actual and material damages as well as costs, plus interest on any sums awarded at the rate of five percent per annum from the date of her request for management evaluation through the date all amounts awarded are paid.

The Secretary-General's Answer

28. The UNDT correctly determined that the decision to place Ms. Coleman on SLWOP constituted a lawful exercise of the Administration's discretion and dismissed her application. Pursuant to Staff Rule 5.3(f), the Administration enjoys wide discretion in placing staff members on SLWOP. Because Ms. Coleman failed to renew the documentation necessary to continue to perform her functions from her duty station, the Pakistani authorities requested that she leave the country. While allowing her temporarily to work remotely from the UK, UNICEF made genuine and reasonable efforts to renew her documentation so that she could continue to work from her duty station. Despite the Administration's efforts, the Government of Pakistan did not allow her to remain in the country. Consequently, UNICEF offered Ms. Coleman the opportunity to work elsewhere, i.e., in a P-4 position in South Sudan where she would be remunerated and receive entitlements at the P-5 level. It was in the interest of the Organization not to keep her on pay status after she refused to be reassigned to a position offered and after expressing that she no longer wanted to work for the Organization. Considering the exceptional circumstances of the present case, it was well within the Administration's discretion to place her on SLWOP.

29. Ms. Coleman has failed to demonstrate that the UNDT made any errors warranting a reversal of the Judgment. Most of Ms. Coleman's arguments in her appeal do not concern the contested decision – the decision to place her on SLWOP - but rather concern alleged actions or inactions of the UNICEF Administration prior to taking the contested decision. These submissions therefore fall outside the scope of the arguments relevant to the contested decision and should be considered not receivable. Should they be considered receivable, none of the arguments establish any errors warranting the reversal of the Judgment for the reasons set forth below.

30. Ms. Coleman does not explain how the alleged errors affect the Judgment and how they would warrant a reversal of the UNDT's finding that the contested decision was lawful. The arguments should be dismissed on this ground alone. Further, contrary to what Ms. Coleman asserts, the UNDT considered all relevant factors in determining that the contested decision was lawful, including the fact that she had placed herself in a situation in which she could no longer perform her duties in Pakistan; rejected the temporary assignment offered to her in South Sudan; and was not interested in working in UNICEF beyond the expiry of her appointment.

31. In order to work in Pakistan, international staff members are required to have a visa and an accreditation card issued by the MOFA. While the Administration assists international staff members with the visa and accreditation card issuance and with renewals of such documents, the responsibility to renew such documentation lies with the staff member. In the present case, the Administration reminded Ms. Coleman to submit the documentation before the expiration of her MOFA accreditation card. Whether the Administration did so only two days before the expiration of the MOFA accreditation card is irrelevant. The responsibility of renewing the documentation was Ms. Coleman's and not the Administration's. All she had to do was to submit said documentation and return it to the Administration to process and submit to the Pakistani authorities. Ms. Coleman however chose to ignore the e-mail of the Administration dated 28 September 2016 and submitted the documentation more than eight months after the expiration of her MOFA accreditation (i.e., in July 2017).

32. The Administration, furthermore, did not have an obligation to follow up with Ms. Coleman after it sent the e-mail on 28 September 2016. Asking the Organization to send reminder e-mails to staff members so that they abide by their administrative responsibilities is clearly beyond its responsibilities. Staff members are responsible for having the proper documents in order to work lawfully in their duty station. Ms. Coleman, a senior professional staff member of the Organization, cannot claim ignorance of the law and request that the Administration takes on her responsibilities. Also, Ms. Coleman already had a MOFA accreditation card issued during her service in Pakistan, and it was not new documentation of which she was unaware. After she had submitted her late request for renewal, the Administration made genuine efforts to ensure the renewal of her documentation. Indeed, as evidenced by a January 2018 e-mail on record, the Administration "took at least 11 separate actions, including: discussing the issue between the Officer-in-Charge, UNICEF PCO, and the Director General Protocol, MOFA, in four meetings between October 2017 and January 2018, sending two *Notes Verbales* to the MOFA in October

and November 2017, making several telephone calls and sending a number of emails to Protocol as of October 2017 and discussing the matter between the Deputy Representative and the Director General Protocol, MOFA, in December 2017”.¹ Ms. Coleman has failed to show that the UNDT did not consider all relevant facts and her argument that the Administration failed to ensure the renewal of her visa and MOFA accreditation card should be dismissed accordingly.

33. Ms. Coleman’s argument that the UNDT incorrectly determined that UNICEF failed to send a formal apology to the MOFA on her behalf should be dismissed. As with the other arguments raised, Ms. Coleman does not explain how the alleged error relates to the contested decision. She further did not identify any legal provision which required the Administration to apologize on the staff member’s behalf for not renewing her documentation on time. The Administration’s genuine efforts with the Pakistani Government to renew her documentation so that she could continue to work from Pakistan were not undermined by the fact that the Administration did not send an apology letter on behalf of Ms. Coleman for an error for which she was solely responsible. Furthermore, there was no evidence on record suggesting that the Pakistani authorities or anyone else was expecting to receive an apology letter from UNICEF. There was therefore no evidence that such a letter would have had any impact on the decision by Pakistan to renew her visa and the MOFA accreditation card.

34. Ms. Coleman’s argument that the UNDT did not support its finding that her functions were not compatible with working remotely should be dismissed. Whether her functions were compatible with working remotely is not relevant because she did not contest the decision not to allow her to work remotely. While the UNDT may not have specifically identified and quoted the evidence supporting its finding that her functions were not compatible with working remotely, it was not required to do so. Additionally, there is evidence on file that supports the UNDT’s conclusion. Indeed, the e-mail dated 2 February 2018 from the Administration to Ms. Coleman informed her why she could not be permitted to work remotely. Having weighed this evidence, the UNDT correctly concluded her functions were not compatible with working remotely. Moreover, the fact that the Administration had temporarily allowed her to work remotely when she was first asked to leave Pakistan is no basis for allowing her to continuously and permanently work remotely again after the circumstances had changed.

¹ Impugned Judgment, para. 40.

35. Ms. Coleman's argument that the UNDT erred in finding that UNICEF did not have an obligation to reassign her should be dismissed. She has not explained why the Organization was obliged to reassign her. Despite not having an obligation to find her an alternative position, the Administration did, nevertheless, attempt to assist her in seeking other job opportunities, initially on 26 January 2017, when offering her the opportunity to explore options of reassignment elsewhere, specifically to the Regional Office or to support the L3 crisis in Bangladesh, and subsequently when offering her a temporary position as a Child Protection Specialist in South Sudan. The Organization had already paid her for two months, while she was on SLWFP. Therefore, following her refusal to be reassigned to the position offered, her placement on SLWOP was reasonable.

36. Ms. Coleman's argument that the UNDT improperly concluded that the contested decision was a legitimate exercise of the Administration's discretion should be dismissed. There is no evidence on record to support Ms. Coleman's contention that her placement on SLWOP was a retaliatory measure by the Administration. She has not demonstrated that UNICEF exercised its discretionary power in an irrational or unreasonable manner and the record shows no evidence of improper motives.

37. Ms. Coleman has failed to demonstrate any errors warranting a reversal of the UNDT Judgment. Accordingly, the Secretary-General requests UNAT to uphold the UNDT Judgment and to dismiss the appeal in its entirety.

Considerations

38. In terms of Article 2(1) of its Statute, the Appeals Tribunal shall be competent to hear and pass judgment on an appeal filed against a judgment rendered by the UNDT in which it is asserted that the UNDT has (a) exceeded its jurisdiction or competence; (b) failed to exercise jurisdiction vested in it; (c) erred on a question of law; (d) committed an error in procedure, such as to affect the decision of the case; or (e) erred on a question of fact, resulting in a manifestly unreasonable decision. An appellant is thus obliged to bring his or her appeal within the parameters of that framework by identifying specific grounds of appeal. The appeals procedure is of a corrective nature and is therefore not an opportunity for a party to simply reargue his or her case. A party cannot merely repeat on appeal arguments that did not succeed before the UNDT. More is required. An appellant must demonstrate that the judgment is

defective.² Therefore, the evident question for consideration is whether the UNDT erred in finding that the Administration properly exercised its discretion when it placed the Appellant on SLWOP effective 1 May 2018.

39. Staff Rule 5.3(f) provides that: “In exceptional cases, the Secretary-General may, at his or her initiative, place a staff member on special leave with full or partial pay or without pay if he or she considers such leave to be in the interest of the Organization.”

40. In reaching its conclusion that the Administration had acted properly (lawfully and reasonably), namely that it was reasonable for the Administration to decide that it was not in the interest of the Organization to keep the Appellant on pay status whilst not performing work for the Organization until the expiry of her fixed-term appointment on 30 September 2018, the UNDT considered, *inter alia*, that: i) she had placed herself in a situation in which she could no longer perform her duties in Pakistan; ii) she had rejected the temporary assignment offered to her in South Sudan; and iii) she was not interested in working in UNICEF beyond the expiry of her appointment.

41. The UNDT did not err in any of its factual findings and did not err in its legal conclusion that the decision of the Administration to place the Appellant on SLWOP was both lawful and reasonable. The Appellant has not established any grounds of appeal in this regard.

42. We recall the Appeals Tribunal’s jurisprudence that when judging the validity of the Administration’s exercise of discretion in administrative matters, as in the present case, the first instance tribunal determines if the decision is legal, rational, procedurally correct, and proportionate. The first instance tribunal may consider whether relevant matters were ignored, and irrelevant matters considered, and also examine whether the decision is absurd or perverse. It is not the role of the first instance tribunal to consider the correctness of the choice made by the Administration amongst the various courses of action open to it. Nor is it the role of the first instance tribunal to substitute its own decision for that of the Administration.³

² *Felix Ross v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1054, para. 44; *Cherneva v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-870, para. 30, citing *Kule Kongba v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-849, para. 19.

³ *Jafari v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2019-UNAT-927, para. 32; *Kule Kongba v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-849, para. 27; *Abu Lehia v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2018-UNAT-814, para. 20.

43. Upon considering the Administration's compliance with the principles and standards set in the Appeals Tribunal's case-law when exercising its discretionary authority, as in the present case, the UNDT correctly held that while the renewal of a visa or accreditation card was a shared responsibility between the Administration and the staff member and the Administration fulfilled its obligation by contacting the Appellant prior to the expiration of her accreditation card in September 2016, she only provided the requested documentation for the renewal in July 2017, almost a year after the expiry of her accreditation card. Consequently, it was the Appellant's own failure to timely submit the required documents, i.e., the renewal form and passport photographs, that prevented the Administration from completing the renewal request process and obtaining the timely renewal of her accreditation card.

44. The UNDT noted also that following the Appellant's return to Islamabad in October 2017, the Organization made good faith efforts to secure the renewal of her visa and accreditation card with the Pakistani authorities (i.e., discussing the issue between the Officer-in-Charge, UNICEF PCO, and the Director General Protocol, MOFA, in four meetings between October 2017 and January 2018, sending two *Notes Verbales* to the MOFA in October and November 2017. etc.), unfortunately without success. The Appellant asserts, however, to no avail, that she was unaware of the importance of the MOFA card and that the Administration reminded her to submit the documentation on 28 September 2016, a mere two days before the card's expiration. The Appellant was presumed to know the law applicable to her as an international civil servant and though she was timely informed about her obligation to submit the relevant documentation, she responded to it more than nine months after the expiration of her MOFA accreditation card.

45. The UNDT Judge correctly held further that the Appellant's request to work remotely until the expiration of her contract was considered by the Administration, however the nature of her functions was not compatible with working remotely; as well as that UNICEF was under no obligation to find her another assignment once she had refused a temporary reassignment to a P-4 post of Child Protection Specialist in South Sudan with remuneration at the P-5 level, not only because the circumstances of her departure from Pakistan were self-created, but also because she had informed the then Deputy Representative UNICEF PCO, in a meeting held on 26 January 2018, that she was not interested in continuing working with UNICEF beyond the expiration of her fixed-term appointment.

46. Finally, the UNDT's conclusion that the Administration acted lawfully and reasonably, because the Appellant had to leave Pakistan at the explicit request of the host country and therefore, she was not able to perform her duties, as she lacked a valid accreditation card, leaving, thus, to the Organization no other solution but to consider alternative arrangements, such as placing her on SLWFP and then on SLWOP, to address the situation, is unassailable. It appropriately deferred to the discretionary authority of the Administration in work arrangement matters and made no appealable error.

47. Indeed, we find no reason to differ from that conclusion. The Dispute Tribunal has broad discretion under Article 10(1) of its Rules of Procedure to determine the admissibility of any evidence and the weight to be attached to such evidence. The findings of fact made by the UNDT can only be disturbed under Article 2(1)(e) of the Appeals Tribunal Statute when there is an error of fact resulting in a manifestly unreasonable decision, which is not the case here.

48. In the premises, this Tribunal shares the view of the first instance Judge that, under the aforementioned legal and factual circumstances, the challenged administrative decision was reasonable and therefore lawful. The UNDT gave careful and fair consideration to the Appellant's arguments regarding her placement on SLWOP, while she had not successfully discharged the burden of proving improper action on the part of the Administration. It rightly rejected the Appellant's claims of being retaliated against and harassed and that the contested administrative decision was a veiled or disguised disciplinary measure on the grounds that the allegations made were wholly unsupported by any evidence. In fact, Ms. Coleman has not convinced the UNDT, nor the Appeals Tribunal, that the Administration violated her rights in any way in that respect.

49. For those reasons, the appeal falls to be dismissed in its entirety.

Judgment

50. The appeal is dismissed and Judgment No. UNDT/2021/011 is affirmed.

Original and Authoritative Version: English

Dated this 18th day of March 2022.

(Signed)

Judge Raikos, Presiding
Athens, Greece

(Signed)

Judge Knierim
Hamburg, Germany

(Signed)

Judge Raikos
Juiz de Fora, Brazil

Entered in the Register on this 10th day of May 2022 in New York, United States.

(Signed)

Weicheng Lin, Registrar