



Before: Judge Alexander W. Hunter, Jr.

Registry: Geneva

Registrar: René M. Vargas M.

ANDREEVA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:
Robbie Leighton, OSLA

Counsel for Respondent:
Miriana Belhadj, LPAS, UNOG
Jérôme Blanchard, LPAS, UNOG

Introduction

1. On 5 August 2020, a Legal Specialist at the P-3 level with the Legal Office of the Bureau for Management Services (“BMS/LO or Legal Office”), United Nations Development Programme (“UNDP”), contested the Administration’s decision not to renew her fixed-term appointment beyond 30 June 2020 and the decision to find her ineligible for home leave entitlement.
2. On 1 February 2021, the case was assigned to the undersigned Judge.

Consideration

3. The Applicant was initially recruited as a Legal Specialist in New York in 2011. From November 2013, the Applicant’s post was redeployed to Geneva to provide legal support to the Global Fund/Health Implementation Support Team (“GF/HIST”) in Geneva while she continued to report to her supervisor in BMS/LO in New York. In a memorandum dated 1 August 2013, it was noted that the Service Level Agreement (“SLA”) between BMS/LO and GF/HIST would be “amended to reflect the increased pro forma costs of the position”.
4. According to the SLA between BMS/LO and GF/HIST signed in January 2020, it was agreed that GF/HIST no longer needed dedicated legal support through a P-3 BMS/LO staff member and the funding to be provided to BMS/LO was decreased from USD299,192 to USD160,000.
5. In the reply, the Respondent states that since the Applicant’s functions over the last four years had evolved and her primary functions became dedicated legal support to GF/HIST, her post became a post funded exclusively from GF/HIST. The Respondent submits that with the sole exception of the Applicant’s post, all posts in the Legal Office have been funded from either UNDP’s Regular Budget or from the General Management Services Reserve. The Respondent further submits that the Applicant’s post was to be abolished upon expiration of her fixed-term appointment on 30 June 2020.

6. The Applicant disputes the reasons provided by the Respondent and submits that she was employed on a generic Legal Officer's post and that it was arbitrary to allow a reduction in funding from GF/HIST to impact exclusively on the Applicant.

7. While the Respondent submits that as the Applicant's functions evolved, her post became a post exclusively funded by GF/HIST, the Tribunal does not find any documentation showing the change of the funding source of the Applicant's post. The Respondent only submitted undated tables, from an unclear source, showing the funding code of all the posts in BMS/LO. According to these tables, the funding code of the Applicant's post is described as "HQ Reimbursable Services – Non Agency". The Tribunal notes that it is not clear when the funding source of the Applicant's post had changed.

8. The Tribunal also notes that the memoranda dated August 2013 regarding the redeployment of the Applicant's post from New York to Geneva did not mention the change of her post's funding source. They only mention that the SLA was amended to reflect the increased pro forma costs of the position.

9. Accordingly, the Respondent is directed to submit information on when the Applicant's post's funding source was changed and provide contemporaneous documentation in that regard, as well as any corresponding notification provided to the Applicant, if any.

10. Noting that the Respondent submits that the Applicant's post was to be abolished upon expiration of her appointment on 30 June 2020, the Tribunal directs the Respondent to provide contemporaneous documentation showing UNDP's decision to abolish the Applicant's post.

Case No. UNDT/GVA/2020/037

Order No. 32 (GVA/2021)

IT IS ORDERED THAT:

11. By **4 p.m. on Monday, 22 February 2021 (Geneva time)**, the Respondent is to file additional documentation as described in paras. 9 and 10 above.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 8th day of February 2021

Entered in the Register on this 8th day of February 2021

(Signed)

René M. Vargas M., Registrar, Geneva