

UNDT/2010/068, Chen

UNAT Held or UNDT Pronouncements

Outcome: Appeal upheld. Decision held to be a breach of staff regulation 2.1 and the principle of equal pay for work of equal value. Respondent ordered to pay compensation of the difference in salary, allowances and other entitlements between the applicant's current level and the level at which she should have been classified since the date she made her request. Respondent ordered to pay compensation for non-material damage due to frustration and humiliation compounded by delays at six months' net base salary.

Decision Contested or Judgment/Order Appealed

A benchmark job description classified the position of Chief of Unit at the P-4 level for a Section in which there were six positions, one of which was encumbered by the applicant. As a result of this reclassification, three of the six positions were reclassified at the higher level. The applicant remained at the P-3 level. Despite requests from the relevant USG to the Controller for the posts to be included in the proposed budget, this was not done and the applicant was informed that her position would not be reclassified. The applicant requests review of the decision not to reclassify her post from the P-3 to the P-4 level.

Legal Principle(s)

UN staff are entitled to expect certain normative implied rights, including the right to equal pay for equal work of equal value; this right is not necessarily linked to equality between genders but refers also to equality for each employee performing a particular defined job. The reliance on budgetary restraints in the face of strong evidence that the classification was justified according to the mandatory considerations of the nature of the duties and responsibilities required by staff regulation 2.1 impugns the decision. The principle of equal pay for work of equal value is implied into the applicant's contract of employment.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Chen

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2009/056/JAB/2008/112

Tribunal

UNDT

Registry

New York

Date of Judgement

22 Apr 2010

Duty Judge

Judge Shaw

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Classification (post)

Compensation

Non-pecuniary (moral) damages

Discrimination and other improper motives

Applicable Law

Administrative Instructions

- ST/AI/1998/9

Staff Regulations

- Regulation 1.1(d)
- Regulation 1.2
- Regulation 2.1

UNDT Statute

- Article 10.5
- Article 2.1