

UNDT/2010/148, Applicant

UNAT Held or UNDT Pronouncements

UNDT found that the applicant's case was limited to the amount of adequate compensation for the failure to adequately and timeously consider his complaint and that his other claims, including with respect to the termination of his appointment, were not properly before it. UNDT found that the Administration was required—but failed—to undertake an adequate and timeous initial inquiry into the applicant's allegations. UNDT found that the applicant substantiated his claims of emotional distress and injury and must be compensated for it. However, UNDT found that the applicant failed to show that his medical condition is a result of the Administration's actions and that he should be compensated for it. The respondent was ordered to pay USD40,000, inclusive of the one month's net base salary to which he had already agreed but not yet paid. The applicant's requests for investigation, apology, and costs were rejected. Outcome: The respondent was ordered to pay USD40,000.

Decision Contested or Judgment/Order Appealed

The applicant appealed against the failure of the High Commissioner for Human Rights to address his complaint of abuse of power, harassment and discrimination by his supervisors. The JAB found that the Organisation failed to properly address the applicant's complaint and recommended compensation in the amount of one month's net base salary. The Secretary-General agreed. The applicant filed an appeal contesting the amount of compensation and requesting that the respondent be ordered to investigate his complaint and issue an apology.

Legal Principle(s)

Duty to give complaints proper consideration: Section 2 of ST/AI/371 requires managers to undertake an initial inquiry to determine whether there was "reason to believe" that the staff members named in the applicant's complaint had "engaged in

an unsatisfactory conduct for which a disciplinary measure may be imposed". This initial inquiry has to be adequate and timeous. Compensation, generally: Staff members should be recompensed for negative effects of the breach and the compensation should be proportionate to the damage suffered. Compensation, burden of proof: Generally, the burden is on the applicant to substantiate his claim for damages. Compensation for emotional distress and injury (moral damages): It is more appropriate to express compensation for emotional distress and injury in lump sum figures, not in net base salary. Such damages, unlike actual financial loss, are not dependent upon the applicant's salary and grade level. Dignity, self-esteem and emotional well-being are equally valuable to all human beings regardless of their salary or grade. Compensation for failure to ensure protection of basic human rights: When basic fundamental human rights are at stake, a failure to afford adequate consideration and protection may be an aggravating factor.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The respondent was ordered to pay USD40,000.

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

OHCHR

Case Number(s)

UNDT/NY/2010/029/UNAT/1666

Tribunal

UNDT

Registry

New York

Date of Judgement

20 Aug 2010

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Disciplinary matters / misconduct

Discrimination and other improper motives

Applicable Law

Administrative Instructions

- ST/AI/371

Information Circulars

- ST/IC/2003/17

UNDT Statute

- Article 10.5

Related Judgments and Orders

UNDT/2009/028

UNDT/2009/029

UNDT/2010/001

UNDT/2010/009

UNDT/2010/042

UNDT/2010/071

UNDT/2010/097

UNDT/2010/121