

UNDT/2011/048, Cieniewicz

UNAT Held or UNDT Pronouncements

The Tribunal found that the application was receivable *ratione temporis* but rejected it on the merits, on the ground that the post whose functions the Applicant carried out was not vacant or temporarily vacant within the meaning of ST/AI/1999/17. The Tribunal further rejected the Applicant's request for moral damages.

Receivability *ratione temporis*: The serious health problem suffered by the Applicant constituted an exceptional circumstance justifying the delay in filing his application. The short period of time between the end of his sick leave and the filing of his application shows that the Applicant acted diligently. The formal requirements imposed by art. 7 of the Rules of the former UNAT are not prescribed as a condition of receivability. Therefore, while a uniform presentation of applications is desirable, the fact that the Applicant did not file a corrected application within the time limit set by the Tribunal's Secretariat is not sufficient ground to reject the application as irreceivable.

Organisation of work/organisational measure: It is not for the Tribunal to decide whether a decision to redeploy a post was appropriate or not.

Compensation for delays in the processing of a request for benefits: Except in specific circumstances, administrative delays in the processing of a staff member's request for benefits cannot be considered to have caused him/her moral damage which should give rise to compensation. The prejudice caused to an individual by the delay in paying him/her a sum of money is normally a material damage which is compensated by the award of interests on this amount from the date it is due.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to grant him an SPA for having assumed, from 21 February 2000 to 13 August 2001, the duties and responsibilities of a P-5 post whose incumbent had been reassigned together with his post to another service. He further requested moral damages for the excessive delays in the processing of his SPA requests by the Administration.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Cieniewicz

Entity

UNOG

Case Number(s)

UNDT/GVA/2010/032

Tribunal

UNDT

Registry

Geneva

Date of Judgement

8 Mar 2011

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Compensation

Non-pecuniary (moral) damages

Pecuniary (material) damages

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

Administrative Instructions

- ST/AI/1999/17

Former UNAT Statute

- Article 7