

UNDT/2011/192, Applicant

UNAT Held or UNDT Pronouncements

A judgment in which it is decided that the summary dismissal of the Applicant was wrongful calls for a rescission of the said sanction. The Applicant had a reasonable expectation that he would remain in service beyond the date of his wrongful summary dismissal. The Tribunal refuses the request that the Applicant ought to be compensated on a P5 scale and agrees with the Respondent's argument that such an award would be merely speculative. A summary dismissal is the most severe sanction that the Respondent may impose on a staff member for serious misconduct. Judicial notice is taken of the fact that this sanction when wrongfully imposed will necessarily bring about damage to professional and social reputation, harm to career prospects and stigma. The Tribunal is satisfied that the Applicant's medical condition bears sufficient relevance to stress brought about by the summary dismissal. The Applicant shall be paid a repatriation allowance in the amount normally made by the Organisation. The claim for education grant is refused. In order to make good the position of the Applicant and restore him to the position he ought properly to have been in if the wrongful sanction was not imposed; the Applicant shall be restored to the roster for relevant P5 positions within the Organisation. The Tribunal wishes to call attention to the conduct of some managers who have through recklessness and their lack of the required managerial skills, engaged in actions in their official capacity that not only embarrass the Organisation but bring about heavy cost-implications in the award of monetary compensation.

Decision Contested or Judgment/Order Appealed

On 23 June 2011, the Tribunal issued Judgment No. UNDT/2011/106 in the Applicant's case and decided that the actions for which he was charged and dismissed by the Organisation did not amount to serious misconduct as found by the Secretary-General. The Tribunal also decided that the imposition of the sanction of summary dismissal on the Applicant was wrongful. In UNDT/2011/106, the Tribunal ordered that the Parties were to agree on remedies failing which it would hear and decide on the matter. Remedies are the subject of the current Judgment.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Tribunal ordered: rescission of the contested decision; reinstatement; and in lieu compensation among other remedies.

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

BINUB

Case Number(s)

UNDT/NBI/2010/012

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

10 Nov 2011

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

In-lieu compensation

Non-pecuniary (moral) damages

Pecuniary (material) damages

Applicable Law

UNDT Statute

- Article 10.5

Related Judgments and Orders

UNDT/2011/106

2013-UNAT-280

UNDT/2011/192