

UNDT/2012/061, Mokbel

UNAT Held or UNDT Pronouncements

Outcome: For Applicant (relief to follow).

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent's failure to address the Applicant's request for compensation consequent upon the dismissal of disciplinary charges against him, including for bribery, in connection with a procurement exercise.

Legal Principle(s)

Compensation for failed disciplinary charges. There cannot be an immutable principle of law conferring an automatic entitlement to compensation to staff members who may have been acquitted of disciplinary charges. However, it must be unarguable, in principle, that where the disciplinary charges would appear to have been brought for improper motives, were baseless, devoid of merit, unnecessary, irrational, or for that matter negligently brought, the decision-makers must be held to account on the grounds that such conduct could amount to an abuse of power or the arbitrary exercise of power that is inconsistent with the highest standards of conduct required of staff members as international civil servants. The scope of judicial review. It is not for the Tribunal to conduct its own investigation into the allegations of misconduct. However, it is very much the duty of the Tribunal to consider the investigation reports and conclusions and to ask if a balanced and objective consideration was given to the question whether the Procurement Task Force ("PTF") report, the Applicant's rebuttal and the PTF's letter of response, all taken together, could reasonably justify the serious charges that were brought against the Applicant. Standard of proof. It is trite law that the more serious the allegation the more cogent must the evidence be. The standard of proof has to be more than mere conjecture based on the subjective perception of those from whom the Applicant allegedly sought a bribe. The quality of the evidence, if properly and fairly reviewed at the time the decision was made to charge the Applicant would not, and could not, reasonably have resulted in formal disciplinary charges being preferred.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Mokbel

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2010/068

Tribunal

UNDT

Registry

New York

Date of Judgement

1 May 2012

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Standard of proof

Disciplinary cases

Applicable Law

Administrative Instructions

- ST/AI/371

Former Staff Regulations

- Regulation 1.2

Secretary-General's bulletins

- ST/SGB/273

Related Judgments and Orders

2011-UNAT-164