

UNDT/2012/150, Bi Bea

UNAT Held or UNDT Pronouncements

The Tribunal held that the delay by the Respondent without reason was a 'manifest abuse of the proceedings' which entitled the Applicant to an award of costs. In light of said delays by the Respondent the Tribunal awarded the Applicant interest from the date of wrongful separation until the payment of compensation, and for the moral damages award, interest from the date of award by the JAB. The Tribunal held that as there is no practical difference between the terms 'net' and 'net base' pay, the Applicant is not entitled to the additional payments which amount to the 'gross' sum of his salary. The Applicant's request for pension contributions was refused, the Tribunal holding that the award of compensation was to compensate him for loss of his position and was not a continuation of his employment beyond the employment date. The Organisation's contributions to the pension fund were not a supplement to the staff member's income and could not be treated as such, rather they were nominal contributions accounted for at the relevant period.

Decision Contested or Judgment/Order Appealed

The JAB awarded the Applicant nine month's net salary as compensation for premature and wrongful separation; six month's salary for the time he should have remained in service and three month's for moral damages. The Applicant requested (i) costs for the time wasting of the Administration in forcing him to take the case, (ii) interest for the Administration's delay in awarding him the compensation, (iii) payment of 'net salary' as opposed to 'net base salary' and (iv) the Administration's pension contributions for the months he should have remained in service.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

UNDT awarded financial compensation.

Full judgment

[Full judgment](#)

Applicants/Appellants

Bi Bea

Entity

UNHCR

Case Number(s)

UNDT/NBI/2010/018

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

11 Oct 2012

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Pecuniary (material) damages

Separation from service

Applicable Law

UNDT Statute

- Article 10.5