

# **UNDT/2012/186, Ahmed**

## **UNAT Held or UNDT Pronouncements**

The UNDT found that the Applicant's contract was not terminated but, instead, it was not renewed after its date of expiration. As termination indemnity was payable to staff members upon termination of their appointment and not in cases of non-renewal, the Applicant was not entitled to such payment. With respect to the interest on reimbursement for unused annual leave days, the UNDT found that, while that reimbursement amount was held by the Organization pending completion of the Applicant's separation paperwork, it accrued interest which is payable to the Applicant. With respect to the payment in lieu of notice, the UNDT found that the Respondent undertook to pay to the Applicant three months' salary in lieu of notice in recognition of the Applicant's many years of service. The UNDT found that, instead of paying to the Applicant three months' salary in lieu of notice, the Organization placed him on special leave with full pay. The UNDT found that it would be improper to equate salary paid while on special leave with full pay with the promised payment in lieu of notice. Further, the Tribunal found that the amounts due to the Applicant shall be subject to interest. Prior to 13 September 2011, the interest was at the applicable US Prime Rate. Starting 13 September 2011, when no separation-related paperwork was outstanding from the Applicant and the amounts should have been paid in full in Pakistani dollars, the interest was at the applicable interest rate as established by the State Bank of Pakistan.

## **Decision Contested or Judgment/Order Appealed**

The Applicant, a former staff member with the United Nations Information Centre ("UNIC") in Islamabad, Pakistan, contests the non-payment, upon his separation, of "termination indemnity", of interest on his reimbursement for unused annual leave days, and of three months' salary in lieu of notice promised to him by the Organization.

## Legal Principle(s)

Interest rate: The very purpose of compensation is to place the staff member in the same position he or she would have been in had the Organization complied with its contractual obligations (Warren 2010-UNAT-059). Accordingly, if the outstanding amount is due to the applicant in Pakistani rupees, the applicable interest as of the date the money was due to the applicant should be the interest rate established by the State Bank of Pakistan. Termination indemnity: Termination indemnity is payable to staff members upon termination of their appointment and not in cases of non-renewal. Special leave: Placement on special leave is governed by particular provisions of the Staff Rules and cannot be improperly utilized by the Administration.

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Ahmed

## Entity

UN Secretariat

## Case Number(s)

UNDT/NY/2012/025

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

30 Nov 2012

## Duty Judge

Judge Meeran

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Benefits and entitlements

Special leave (with or without pay)

## Applicable Law

Staff Rules

- Rule 105.2

## Related Judgments and Orders

UNDT/2010/161

UNDT/2010/214

UNDT/2011/123

2010-UNAT-059

2011-UNAT-153

2012-UNAT-215