

UNDT/2014/021, Portillo-Moya

UNAT Held or UNDT Pronouncements

The parties agreed that the facts were not contested and that the issue for the Tribunal's consideration was whether the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnities was proportionate to the Applicant's conduct. Taking the mitigation circumstances into consideration, the UNDT found that the sanction was not proportionate to the facts and substituted it for the lesser sanction of separation from service with termination indemnities. The Tribunal agrees with the facts that the Applicant's conduct was improper and that she created an offensive and intimidating work environment and that she did not respect certain WFP rules regarding the processing and distribution of goods as well as WFP's financial obligations. The Tribunal further finds that she was made aware of problems related to her behavior and that she did not address them. The Tribunal considers that WFP did not give sufficient weight and did not fully consider the mitigating circumstance and it therefore accepts the Applicant's contention that the entire context in which the misconduct occurred was not correctly evaluated by the decision-maker in determining the applicable disciplinary sanction..

Decision Contested or Judgment/Order Appealed

The Applicant contests her separation from service without termination indemnity following an investigation into a written complaint that she had breached the World Food Programme's ("WFP") rules regarding harassment, sexual harassment and abuse of the authority as well as financial and transport rules.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Only financial compensation

Full judgment

[Full judgment](#)

Applicants/Appellants

Portillo-Moya

Entity

WFP

Case Number(s)

UNDT/NY/2010/093

Tribunal

UNDT

Registry

New York

Date of Judgement

24 Feb 2014

Duty Judge

Judge Greceanu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Dismissal/separation

Performance management

Termination (of appointment)

Applicable Law

Secretary-General's bulletins

- ST/SGB/2009/7

Staff Regulations

- Regulation 1.2

Staff Rules

- Rule 1.1

UNDT Statute

- Article 8