

UNDT/2016/017, Kanganathan

UNAT Held or UNDT Pronouncements

N/A

Decision Contested or Judgment/Order Appealed

The Applicant challenged her dismissal for misconduct, i.e. i) “gross negligence in the submission of false and fraudulent quotations for procurement of goods on behalf of UNICEF;” and ii) “committing irregularities in the handling of petty cash and abusing her authority by asking drivers, her supervisees, to certify false claims”. The Dispute Tribunal found that the facts upon which the first ground for dismissal was based did not amount to misconduct, and that those in support of the second ground did. It then found that dismissal was a disproportionate disciplinary measure to sanction the Applicant’s misconduct under the second ground alone, which should be considered as a minor offense in light of the circumstances of the case. Consequently, the Tribunal rescinded the decision, substituted the disciplinary measure of dismissal with a written censure and set the amount of compensation in lieu of rescission, under art. 10.5 of its Statute, to one year net base salary.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Only spec. perform. (incl. rescission with \$ alt.)

Full judgment

[Full judgment](#)

Applicants/Appellants

Kanganathan

Entity

UNICEF

Case Number(s)

UNDT/GVA/2015/140

Tribunal

UNDT

Registry

Geneva

Date of Judgement

9 Mar 2016

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Abuse of authority

Disciplinary measure or sanction

Dismissal/separation

Fraud, misrepresentation and false certification

Applicable Law

Administrative Instructions

- ST/AI/2004/3

Information Circulars

- ST/IC/2004/28
- ST/IC/2008/41

Other UN issuances (guidelines, policies etc.)

- UNICEF Financial and Administrative Policy 4: Cash Management, Supplement 1
– Cash Accounts
- UNICEF Supply Manual

Staff Regulations

- Regulation 1.2(b)

UNDT Statute

- Article 10.5(a)
- Article 10.5(b)

UNICEF Executive Directives

- CF/EXD/2012-005

Related Judgments and Orders

UNDT/2011/163

UNDT/2011/162
2014-UNAT-436
2014-UNAT-403
UNDT/2012/169
UNDT/2010/094
2015-UNAT-523
2010-UNAT-087
2011-UNAT-131
2011-UNAT-188