

UNDT/2016/057, Negussie

UNAT Held or UNDT Pronouncements

Investigations in disciplinary proceedings - Investigators should obey the paramount considerations of fairness, detachment and scrupulous objectivity. Evidence of bad character or disposition to establish that show that an individual being investigated has a propensity to commit an act of misconduct should not be relied on unless a past act of misconduct is also part of the investigation. Such evidence cannot lightly be invoked or presented in a court of law and it should not influence the findings of an investigator or those whose responsibility it is to initiate disciplinary proceedings. Due process - Due process requires that a staff member who has been under investigation for a matter that may lead to a disciplinary measure be given an opportunity to comment on the report of the investigation.

Decision Contested or Judgment/Order Appealed

In his Application dated 22 December 2014, the Applicant challenges the decision to separate him from service for serious misconduct. He requests that that the decision be rescinded and in the alternative that he be compensated in an amount representing 15 months' net base salary. The Tribunal found that on the facts the charge of misconduct is established. Notwithstanding the findings of fact, the failure to provide the Applicant with the investigation report prejudiced his right to due process. The Tribunal, however, did not award any compensation because the Applicant did not show that he suffered any specific damages resulting from a breach of his fundamental rights.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Negussie

Entity

WFP

Case Number(s)

UNDT/NBI/2014/115

UNDT/NBI/2014/115/R1

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

9 May 2016

Duty Judge

Judge Izuako

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Investigation

Due process

Applicable Law

UN Charter

- Article 100.1

Related Judgments and Orders

UNDT/2010/024

UNDT/2010/036

UNDT/2016/022

UNDT/2010/053

2010-UNAT-024

2010-UNAT-018

2010-UNAT-022

2010-UNAT-084

2012-UNAT-207

2013-UNAT-364

2011-UNAT-153

2011-UNAT-164

2010-UNAT-087

2014-UNAT-403

2011-UNAT-114

2013-UNAT-289

2011-UNAT-148

2012-UNAT-201