

UNDT/2017/027, Nzegozo

UNAT Held or UNDT Pronouncements

The Tribunal held that the Applicant's intentional actions amounted to misconduct. Although the Applicant did not receive any money from the health insurance company, the mere fact that he attempted to defraud the company by knowingly submitting false information constituted a violation of staff regulation 1.2(b) and amounted to misconduct. Whereas the Applicant contended that his termination was disproportionate particularly in view of his 17 years of service to the Organisation and his continuous satisfactory performance, the Tribunal held that the disciplinary measure was proportionate to the offence committed and consistent with the practice of the Secretary-General in similar cases. The evidence showed that the Under Secretary-General for Management considered the Applicant's length of service with the Organisation in determining the disciplinary measure to be imposed. Contrary to the second Applicant's claim, his continuous satisfactory performance is of little weight in determining a disciplinary measure. With regard to due process, the Tribunal held that the Applicant failed to show an error of procedure on the part of Administration. Apart from the allegations in his Application, the Applicant did not provide any evidence of the alleged violation of his due process rights.

Decision Contested or Judgment/Order Appealed

Disciplinary measure to separate the Applicant from service with compensation in lieu of notice and without termination indemnity.

Legal Principle(s)

In disciplinary cases, the Tribunal performs a judicial review of the case and assesses the following elements: a) whether there is clear and convincing evidence that the alleged facts occurred; b) whether the facts amount to misconduct; c) whether the sanction is proportionate to the gravity of the offence; and d) whether

the staff member's due process rights were guaranteed during the entire proceedings.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Nzegozo

Entity

UNMIL

Case Number(s)

UNDT/NBI/2015/172

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

26 Apr 2017

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Separation from service

Applicable Law

Administrative Instructions

- ST/AI/371

Staff Regulations

- Regulation 1.2(b)
- Regulation 10.1(a)

Staff Rules

- Rule 10.1(a)
- Rule 10.2(a)