

UNDT/2017/036, Al Hallaj

UNAT Held or UNDT Pronouncements

The Tribunal accepted the application in part. It awarded the Applicant one-month's net base salary for moral damages and two-months' net base salary for breach of her employment contract. The Tribunal found that the manner in which the Applicant was treated by the ESCWA management deserved compensation. The evidence showed that the Applicant was removed from her functions without prior notice. She was requested to turn over her security pass and leave the premises immediately. She was not allowed to enter the premises without authorization. In this regard, the Tribunal found that compensation should be awarded in the amount of one-month's net base salary. The Tribunal, further, found that the breach of the Applicant's contract of employment was of a fundamental nature and that, as such, it gave rise to an award of moral damages by virtue of the harm to the employee. Accordingly, the Tribunal found that a reasonable amount of compensation to be awarded to the Applicant was two-months' net base salary.

Decision Contested or Judgment/Order Appealed

The decision to terminate the Applicant's employment contract. As a result, the Applicant requested for compensation in the amount of 15 months' net base salary at the GS-6 step 2 level, which included moral damages in the amount of three months' net base salary and 12 months' net base salary for the breach of contract.

Legal Principle(s)

Pursuant to art. 2.1(a) of the UNDT Statute the Tribunal hears applications appealing administrative decisions that are alleged to be in non-compliance with the terms of appointment or the contract of employment. The jurisprudence of the Tribunal, clarifies that for an administrative decision to be reviewable, it must have direct legal consequences on the Applicant's terms of appointment. What constitutes an

administrative decision depends on the nature of the decision, the legal framework under which the decision was made, and the consequences of the decision. In relation to this case where the Applicant requested for damages, the jurisprudence is that an entitlement to moral damages may arise where there is evidence produced to the Tribunal by way of a medical, psychological report or otherwise of harm, stress or anxiety caused to the employee which can be directly linked or reasonably attributed to the breach of his or her substantive or procedural rights and where the Tribunal is satisfied that the stress, harm or anxiety is such as to merit a compensatory award.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Tribunal found that the Applicant's contract of employment was terminated on the grounds of an error committed by the Administration. The decision to terminate the Applicant's employment was therefore, unlawful. The Applicant was awarded one-month's net base salary for moral damages and twomonths' net base salary for breach of her employment contract.

Full judgment

[Full judgment](#)

Applicants/Appellants

Al Hallaj

Entity

ESCWA

Case Number(s)

UNDT/NBI/2015/182

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

29 May 2017

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Separation from service

Applicable Law

Staff Rules

- Rule 4.5(c)

UNDT Statute

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

2018-UNAT-810