

UNDT/2019/163, Yabowork

UNAT Held or UNDT Pronouncements

Receivability The Respondent argued that the decision to discontinue the payment of SPA was notified to the Applicant on 10 September 2020 and since the Applicant failed to request a management evaluation by 10 November 2020, the application is not receivable. The Respondent's argument was rejected. The Tribunal found that the contested decision is not the initial discontinuation of the payment of SPA but rather the refusal to pay her SPA after certifying officer functions had been assigned to her, which was communicated to her on 25 July 2012. The Applicant timely requested a management evaluation of such decision and therefore the application is receivable. **Merits** The Tribunal found that the Applicant did not come to the Tribunal with clean hands as there were irregularities regarding her receipt of payment of SPA for an extended period.; Much part of the six years she received SPA was in fact not in accordance with the rules of the organization. Being at the highest level of General Services at GS-7 in human resources, the Applicant should have objected to being irregularly paid SPA, rather than continue to request for it. The Organization provided sufficient explanation as to why she was not entitled to SPA. Her team leader and/or delegated certifying officer duties were normally within the functions of a G-7 Senior Human Resources Assistant. The application was dismissed for lack of merit.

Decision Contested or Judgment/Order Appealed

The decision not to extend the Applicant's Special Post Allowance (SPA) even though she performs the higher-level responsibilities of a human resources officer.

Legal Principle(s)

The Organization has an obligation to act in good faith and comply with applicable laws, and that mutual trust and confidence between the employer and the employee

is implied in every contract of employment. Both parties must however act reasonably and in good faith.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Yabowork

Entity

ECA

Case Number(s)

UNDT/NBI/2016/71

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

18 Nov 2019

Duty Judge

Judge Tibulya

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Related Judgments and Orders

2014-UNAT-459