

UNDT/2020/014, Applicant

UNAT Held or UNDT Pronouncements

The Applicant's conduct was in violation of staff regulation 1.2(b) and rule 1.2(f) and constitutes misconduct. The Tribunal found that the Applicant did make efforts to persuade her supervisee to forego attempting mediation to resolve their interpersonal disputes and threatened that mediation could adversely affect her supervisee's career. In particular, the Applicant implied that should her supervisee pursue mediation, her supervisee would develop a bad reputation and that mediation lacked confidentiality. The Applicant further indicated that there may be a negative impact on the chances of supervisee's contract renewal as a result of her perusing mediation. The Tribunal found no finding of retaliation. The Tribunal noted that there was nothing in the record to suggest, let alone prove by clear and convincing evidence, a link with the Applicant's actions and the supervisee's prior report of misconduct. The Tribunal was therefore unable to find that the protected activity was the cause of the detrimental action.

Decision Contested or Judgment/Order Appealed

Imposition of a fine in the amount of two months' net base salary imposed on the Applicant as a disciplinary measure for retaliation and abuse of authority against her supervisee.

Legal Principle(s)

Secret audio recordings are admissible and can be properly considered as evidence by the investigation panel when the evidence meets the five-fold criteria set out in Chhikara (Order No. 172 (NBI/2016)). Mitigating factors of good performance and unblemished conduct records do not absolve staff members from discipline.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

UNFPA

Case Number(s)

UNDT/NY/2017/73

Tribunal

UNDT

Registry

New York

Date of Judgement

30 Jan 2020

Duty Judge

Judge Adda

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Applicable Law

Staff Regulations

Staff Rules

- Rule 1.2