

UNDT/2020/180, Applicant

UNAT Held or UNDT Pronouncements

The Applicant did not prove that any exceptional circumstance beyond her control prevented her from filing the application on time. The Applicant's request for anonymity is granted to ensure the protection of the medical information discussed in the case. Related

Decision Contested or Judgment/Order Appealed

Decision to pay the Applicant special post allowance at the P-2 level, rather than the P3 level, during her temporary assignment to a position at the P-3 level.

Legal Principle(s)

In cases where a management evaluation of the contested decision is required, the application should be filed within 90 calendar days of the expiry of the relevant response period for the management evaluation if no response to the request was provided. Time limits shall not include the day of the event from which the period runs. The Tribunal may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases. If an applicant requested such waiver then s/he bore the burden to prove any circumstances beyond [her/his] control that would have the effect of preventing him from acting within the statutory time limits. The circumstances should meet the test of untypicality or unusualness. After exceptional circumstances are established, the Tribunal should exercise its discretion to suspend or waive the court deadlines considering a balancing of the rights and interests of the parties. The length of any delay, and the responsibility for the delay could be also considered in the exercise of this discretion. However, the duration of delay is irrelevant to the preliminary question of whether there are exceptional circumstances. Only after exceptional circumstances are established, the length of a delay could become a relevant factor.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

UNS

Case Number(s)

UNDT/NY/2019/050

Tribunal

UNDT

Registry

New York

Date of Judgement

20 Oct 2020

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Salary

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

UNDT RoP

- Article 34(a)

UNDT Statute

- Article 8.1(d)(i)(b)
- Article 8.3

Related Judgments and Orders

2020-UNAT-1035

2018-UNAT-872