

2010-UNAT-002, Parker

UNAT Held or UNDT Pronouncements

UNAT considered the Appellant's appeal and found that UNDT erred when it decided to give UNHCR the option to either pay compensation in lieu of reinstating the Appellant or quash the contested administrative decision. UNAT noted that Article 10.5(a) of the UNDT Statute was not applicable as the Appellant was serving under an indefinite appointment governed by Rule 104.12(c) of the Staff Rules (100 Series). UNAT expressed that the contested administrative decision did not concern his appointment, promotion, or termination but his placement between assignments. For this reason, Article 10.5(a) of the UNDT Statute did not apply as it does not regard staff in between assignments. UNAT ordered that the Appellant be reinstated and reversed UNDT's order that gave UNHCR the option to pay compensation as an alternative. UNAT noted that the Appellant's claim for moral damages, with respect to the alleged harassment, would be decided in a separate case in which those allegations would be addressed.

Decision Contested or Judgment/Order Appealed

The Applicant contested UNHCR's decision to rescind his post. UNDT held that the procedure followed by UNHCR in rescinding the Applicant's post was flawed and gave UNHCR the option to pay the Applicant compensation in lieu of rescission. UNDT also ordered that the Applicant be compensated for moral damage. UNDT further ordered UNHCR to submit additional observations "concerning the facts recounted as well as the damage alleged".

Legal Principle(s)

Article 10.5(a) of the UNDT Statute applies to decisions on appointment, promotion, or termination, but not to staff in between assignments.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Parker

Entity

UNHCR

Case Number(s)

2009-003

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Mar 2010

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

In-lieu compensation

Remedies

Compensation (see also, Compensation)

Rescission

Specific performance

Applicable Law

Staff Rules

- Rule 104.12(c)

UNDT Statute

- Article 10.5(a)

Related Judgments and Orders

UNDT/2009/013