

2010-UNAT-012, Parker

UNAT Held or UNDT Pronouncements

In considering the Appellant's appeal, UNAT found that the appeal was not receivable with respect to the issue of the Appellant's non-promotion during the 2004-2005 Annual Promotion Session as the issue was not raised before UNDT. UNAT also found that UNDT did not err in finding on the merits that the Appellant had not been subjected to harassment. UNAT noted that there was a proven record of considerable efforts deployed in order to resolve the Appellant's situation, involving the UNHCR senior management at the highest level and that the High Commissioner personally met the Appellant and participated in the attempts to find an adequate solution. Lastly, UNAT found that UNDT did not err when it found that the onus was on the Appellant to submit the harassment matter to the Inspector General's Office. UNAT noted that it was clear from the facts that the problem was a managerial issue which UNHCR ought to have solved by assigning the Appellant the work as suggested by the Deputy Head of the Africa Bureau. UNAT dismissed the appeal in its entirety and affirmed UNDT's judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to rescind his appointment and alleged harassment on part of UNHCR. UNDT held that the procedure followed to rescind the appointment was flawed and ordered the rescission of the contested decision, or, in the alternative, compensation. UNDT ordered that, before pronouncing a decision on the Applicant's request seeking compensation for damage suffered as a consequence of alleged harassment, UNHCR submit its observations regarding the alleged harassment and damages sustained. The Applicant appealed, arguing that UNDT erred in law in allowing UNHCR to file these observations in order to establish an amount that UNHCR could pay in lieu of rescinding the decision. UNDT found that the allegations of harassment put forward by the Applicant were not established and accordingly rejected the request for compensation.

Legal Principle(s)

With respect to dealing with complaints and grievances, it is up to a complainant, and not management, to make the choice of the process, although managers or supervisors are obligated under paragraph 12 to take all necessary action to address any known act of harassment, sexual harassment or abuse of office.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Parker

Entity

UNHCR

Case Number(s)

2009-016

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Mar 2010

President Judge

Judge Adinyira

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Harassment (non-sexual)

Jurisdiction / receivability (UNAT)

Subject matter (ratione materiae)

Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNHCR Policy on Discrimination, Harassment, Sexual Harassment and Abuse of Authority

Related Judgments and Orders

UNDT/2009/066