

2010-UNAT-025, Doleh

UNAT Held or UNDT Pronouncements

UNAT preliminarily held that the appeal was receivable, as it was filed within the time granted for re-filing. With regards to the issue of the Appellant's termination, UNAT held that the UNRWA JAB's decision was legal, rational, and procedurally proper. UNAT held that it was an exceptional case where the doctrine of proportionality should be invoked. UNAT held that the decision to terminate the Appellant's services was disproportionate, more drastic than necessary. UNAT noted that the changes in the records that were made by the Appellant showed that she had originally not reflected that the patient suffered from DM type I and hypertension. UNAT noted that the patient died of a hypoglycemic shock related to an overdose of insulin. UNAT noted that the Appellant was not involved in the actual treatment of the deceased and that she merely made some changes in the records which had no connection with the patient's death. UNAT held that, while Area Staff Regulation 9. 1 allows for inefficient staff members, or persons who are corrupt and do not possess the required high level of integrity, to be dismissed, the Appellant's case did not fall into any of these categories. UNAT accordingly set aside the Commissioner-General's decision and ordered the Appellant to be re-instated in service, though it ordered an entry be made in her service record about the warning given to her to be careful in the future. UNAT ordered as an alternative compensation in lieu equivalent to two years' net base pay. UNAT allowed the appeal in the aforementioned terms and denied all other forms of relief.

Decision Contested or Judgment/Order Appealed

UNRWA decision: The Applicant contested the decision to terminate her appointment. UNRWA JAB found that her termination was a disproportionate sanction. The Commissioner-General rejected the recommendations of the JAB, dismissed the appeal, and upheld the termination.

Legal Principle(s)

Inefficient staff members, or persons who are corrupt and do not possess the required high level of integrity, or are simply dead wood, must be sent home.

Outcome

Appeal granted

Outcome Extra Text

Both financial and specific performance; Both financial and specific performance.

Full judgment

[Full judgment](#)

Applicants/Appellants

Doleh

Entity

UNRWA

Case Number(s)

2010-030

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Mar 2010

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

In-lieu compensation

Disciplinary matters / misconduct

Disciplinary measure or sanction

Dismissal/separation

Remedies

Compensation (see also, Compensation)

Rescission

Specific performance

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Disciplinary sanction

Applicable Law

UNRWA Area Staff Regulations

- Regulation 9.1

UNRWA Area Staff Rules

- Rule 109.1