

2010-UNAT-030, Tabari

UNAT Held or UNDT Pronouncements

UNAT held that there were exceptional circumstances in this case that required a waiver of the time limit, with respect to A/RES/63/253. UNAT held that the JAB showed inconsistency in its treatment of the cases of Tabari and Shehadeh; both cases were decided on the same day by the same panel, but in Tabari's case there was a split verdict with the majority view being that there was no administrative decision that Tabari could appeal. UNAT held that the Appellant successfully demonstrated the manner in which the anomaly had arisen and noted that the Internal Review Panel took no action to address the anomaly. UNAT further noted that not taking a decision is also a decision that can be challenged. UNAT ordered that the Appellant be paid Special Occupation Allowance Phase II at 51.31% retroactively from 1 January 2006. UNAT further ordered that arrears of the allowance be paid to him within two months from the date of the issuance of the judgment, and the Appellant should henceforth continue to receive the appropriate level allowance.

Decision Contested or Judgment/Order Appealed

UNRWA decision: The Applicant claimed that an anomaly occurred in fixing the rate of his Special Occupation Allowance (SOA). The JAB found that the appeal was not receivable and should be rejected in its entirety. The Commissioner-General approved the JAB recommendation.

Legal Principle(s)

Pay includes net base pay and all admissible allowances. Denial of pay is a violation of the principle of "equal pay for equal work" which is a right granted under Article 23(2) of the Universal Declaration of Human Rights, which stipulates: "Everyone, without any discrimination, has the right to equal pay for equal work." It is the

management's right to fix the pay and allowances. It is expected of responsible management that this is done without discrimination so as to uphold the principle of "equal pay for equal work". The denial of full allowance is also a violation of the terms of employment. Not taking a decision is also a decision that may be challenged on appeal.

Outcome

Appeal granted

Outcome Extra Text

Only financial compensation; Only financial compensation.

Full judgment

[Full judgment](#)

Applicants/Appellants

Tabari

Entity

UNRWA

Case Number(s)

2010-035

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Mar 2010

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Special Post Allowance

Applicable Law

GA Resolutions

- A/RES/63/253

UNAT Statute

- Article 7.1

Universal Declaration of Human Rights

- Article 23.2