

2012-UNAT-238, Massabni

UNAT Held or UNDT Pronouncements

UNAT held that UNDT did have a legal basis to define the administrative procedure and decisions subject to review. UNAT held that UNDT had not erred in considering that the Applicant was contesting not only the decision not to submit her classification appeal to the Classification Appeals Committee but also the final non-classification of her post to the P-4 level. UNAT held that UNDT did not err in assessing the chances of the post being classified at the P-4 level or higher as requested by the Appellant. UNAT held that UNDT had correctly concluded that the staff member was unlawfully deprived of the possibility to have her appeal considered by the Classification Appeals Committee, but that it was very unlikely that the post would have been classified to the P-4 level. UNAT held that UNDT did not err in considering that no clear evidence of material damage arose from the case. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to reclassify her post to the P4 grade. UNDT found that the Office of Human Resources Management was in error in rejecting the Applicant's appeal on the ground that there had been no classification decision that could be appealed, and in not referring her case to the Classification Appeals Committee. UNDT considered that the Applicant had to be regarded as challenging the decision refusing to reclassify at the P-4 grade the post which she occupied at the P-3 grade. UNDT found the response from the Human Resources Management Service/UNOG constituted a substantive decision subject to appeal. UNDT, however, found that the unlawful action on the part of the Administration did not cause clear material damage to the Applicant. UNDT found that it was unlikely that the Classification Appeals Committee would have recommended the reclassification of her post to the P-4 level, or that the Office of Programme Planning, Budget and Accounts and the General Assembly would have confirmed the reclassification. UNDT, nevertheless, awarded the Applicant compensation for the

moral damage caused by OHRM's decision not to refer her case to the Classification Appeals Committee, which deprived the Applicant of an opportunity to present her case and to gain recognition of her responsibilities.

Legal Principle(s)

The duties of a Judge include adequate interpretation and comprehension of applications, whatever their names, words, structure, or content, as the judgment must necessarily refer to the scope of the parties' contentions. The authority to render a judgment gives the Judge an inherent power to individualize and define the administrative decision impugned by a party and identify what is, in fact, being contested and subject to judicial review, which could lead to grant, or not to grant, the requested judgment. Consistent with the jurisprudence of this Tribunal in Wu (judgment No. 2010-UNAT-042) and other cases, not every administrative wrongdoing will necessarily lead to an award of compensation under Article 10.5(b) of the UNDT Statute.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Massabni

Entity

UNCTAD

Case Number(s)

2011-257

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Jun 2012

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Classification (post)

Applicable Law

Administrative Instructions

- ST/AI/1998/9

UNDT Statute

- Article 10.5(b)

Related Judgments and Orders

UNDT/2011/127

2010-UNAT-042