

2012-UNAT-277, Israbhakdi

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT had erred on a question of fact by finding that the three-year ban on promotion “influenced” the Applicant’s decision to resign. UNAT noted that, three months after the Applicant’s resignation, the Administration revoked the third part of the sanction, the three-year ban on promotion, acting in line with UNAT’s jurisprudence concerning the illegality of that measure because it was not provided for in the former Staff Rules applicable at the time. UNAT held that the modification of the imposed measures did not entail a significant change in the staff member’s situation. UNAT held that the circumstances would lead to the conclusion that the decision to resign was voluntarily adopted by the staff member faced with the difficult situation at work he himself had caused. UNAT held that any financial loss the staff member might have suffered appeared to be generated by the lawful demotion (first) or the voluntary resignation (later) and that there were no grounds for compensating what was not caused by the Administration’s illegal ban on promotion. UNAT held that all the consequences and alleged injuries suffered by the staff member in the present case were caused by the staff member’s overall situation and status at the time of his sanction and resignation, and not by the illegal ban on promotion. UNAT upheld the appeal and vacated the compensation awarded by UNDT.

Decision Contested or Judgment/Order Appealed

The Applicant challenged disciplinary measures imposed on him for misconduct in the form of accessing and reading confidential emails of the Special Assistant to the Secretary-General of UNCTAD. UNDT found that the decision to demote the Applicant did not exceed the Administration’s discretionary power and rejected the Applicant’s contention that the disciplinary measure was disproportionate. UNDT concluded that the unlawful three-year ban caused the Applicant additional anxiety and frustration and influenced his decision to resign. UNDT awarded compensation

in the amount of USD 10,000 for harm related to the imposition of the three-year ban on promotion.

Legal Principle(s)

As stated by UNAT in Wu (judgment No. 2010-UNAT-042), not every illegality will necessarily lead to an award of compensation.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Israbhakdi

Entity

UNCTAD

Case Number(s)

2012-306

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Nov 2012

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Disciplinary matters / misconduct

Disciplinary measure or sanction

Related Judgments and Orders

UNDT/2012/010

2010-UNAT-042

2011-UNAT-168