

2013-UNAT-305, Kasmani

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT recalled that UNAT expressly held in *Mmata* (judgment No. 2010-UNAT-092) that Article 10.5 of the UNDT Statute limited the total of all compensation to the equivalent of two years' net base salary of the applicant, unless higher compensation was warranted and reasons were given to explain what makes the case exceptional. UNAT noted that the case was exceptional, including a series of orders for suspension of action, findings of fact pointing to evidence of abuse of authority, retaliatory threats, and a hostile and offensive environment requiring protective measures for Mr Kasmani's witnesses, which supported an increased award. However, UNAT held that the award of 28 months' net-base salary was excessive. UNAT held that there was no merit in the ground of appeal relating to the order of UNDT for the Ethics Office to remain seized of the matter as it was merely an extension of its previous order. UNAT allowed the appeal against the quantum of compensation by UNDT, set aside the compensation awarded by UNDT, and awarded USD 10,000 in compensation.

Decision Contested or Judgment/Order Appealed

The Applicant contested his separation from service. UNDT found for the Applicant, awarded compensation, and ordered the Ethics Office to remain seized of the matter and monitor the situation.

Legal Principle(s)

The UNDT Statute limits the total of all compensation ordered under Articles 10.5(a) and 10.5(b), or both, to the equivalent of two years' net base salary of the applicant, unless higher compensation is warranted, and reasons are given to explain what makes the case exceptional.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Kasmani

Entity

UNON

Case Number(s)

2012-337

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Mar 2013

President Judge

Judge Adinyira

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Aggravating/mitigating factors

Maximum amount / exceptional circumstances

Ethics office

Referral for accountability

Applicable Law

UNDT RoP

- Article 5.2

UNDT Statute

- Article 10.5
- Article 10.5(a)
- Article 10.5(b)
- Article 10.9

Related Judgments and Orders

UNDT/2012/049

2010-UNAT-011

2010-UNAT-092