

# 2013-UNAT-381, Applicant

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General against judgment No. UNDT/2012/159; an appeal by the “Applicant” (anonymity granted) against judgment No. UNDT/2013/079; and a cross-appeal by the Secretary-General of judgment No. UNDT/2013/079. On receivability, UNAT considered the Secretary-General’s case that UNDT erred on the issue of receivability as the non-disciplinary issues contested by the Applicant were never submitted for management evaluation. UNAT held that UNDT, in deciding that the non-disciplinary issues had been submitted for management evaluation, erred in law and in fact, resulting in a manifestly unreasonable decision and that, as a result, UNDT exceeded its jurisdiction in deciding on the merits of the Applicant’s application when it was not receivable insofar as it related to the non-disciplinary issues. On the merits, UNAT held that the UNDT’s award of expenses incurred by the Applicant related to a non-disciplinary issue, which had not been submitted for management evaluation, could not stand. UNAT held that the standard of the UNDT’s review of the disciplinary sanction was consistent with the jurisprudence of UNAT and the Applicant had not demonstrated that UNDT committed any error of law or fact. UNAT allowed the Secretary-General’s appeal and cross-appeal; set aside the UNDT judgment on Receivability; vacated the award of compensation for hotel, storage and airline penalties; and dismissed the Applicant’s appeal.

## Decision Contested or Judgment/Order Appealed

The Applicant contested several decisions subsequent to an investigation into his misconduct, including the issuance of a reprimand; the requirement for him to take a paternity test in order to be reassigned; and the sanction of demotion. In judgment on receivability No. UNDT/2012/159, UNDT found for the Applicant on issues of receivability. In judgment on the merits No. UNDT/2013/079, UNDT found in part for the Applicant, awarding compensation for expenses incurred due to the delay to his departure as a result of the requirement for him to take a paternity test.

## Legal Principle(s)

The purpose of management evaluation is to afford the Administration the opportunity to correct any errors in an administrative decision so as to avoid judicial review and that for this goal to be met, it is essential to clearly identify the administrative decision the staff member disputes.

## Outcome

Appeal dismissed on merits; Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

UNICEF

Case Number(s)

2013-435

2013-488

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2013

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Assault (verbal and physical)

Disciplinary measure or sanction

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

- ST/AI/379

Related Judgments and Orders

UNDT/2012/159