

2014-UNAT-476, Machanguana

UNAT Held or UNDT Pronouncements

UNAT considered an appeal limited to the Appellant's claim that UNDT erred in awarding costs against him. UNAT noted that the jurisdiction of a tribunal to award costs is narrowly restricted to instances where a party has manifestly abused the proceedings. UNAT found that UNDT gave no reasons for its determination that the Appellant had manifestly abused the proceedings, cited no evidence establishing that his application was frivolous or vexatious, or that he had deliberately delayed the proceedings, or had disobeyed an order of UNDT or had, in any other way, abused UNDT's proceedings. UNAT held that UNDT had no grounds for its finding that the Appellant's application was an abuse of process and, therefore, erred in ordering the costs against him. UNAT allowed the appeal and vacated the UNDT's order for costs.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the administrative decision to demote him from one level (G-7 to G-6). UNDT dismissed the application, finding that the facts, on which the disciplinary sanction was based, were established and undisputed. UNDT held that the facts amounted to misconduct and that the sanction was not disproportionate to the offence. UNDT found that the Applicant's application constituted an abuse of process and awarded costs against him.

Legal Principle(s)

The jurisdiction of a tribunal to award costs is narrowly restricted by statute to cases in which it determines that a party has manifestly abused the proceedings before it. It is incumbent on a tribunal awarding costs to state the reasons on which its award of costs is based.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Machanguana

Entity

UNICEF

Case Number(s)

2013-549

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2014

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT
Costs

Applicable Law

UNDT Statute

- Article 10.6

Related Judgments and Orders

UNDT/2013/149
2010-UNAT-058
2011-UNAT-152
2012-UNAT-220
2012-UNAT-278
2013-UNAT-333
2013-UNAT-328
2014-UNAT-400
2014-UNAT-457
2013-UNAT-370