

# **2015-UNAT-525, Flores**

## **UNAT Held or UNDT Pronouncements**

UNAT considered both an appeal by Ms Flores requesting an increase in compensation and a cross-appeal by the Secretary-General. UNAT held that UNDT did not err in either determining that there were procedural violations that warranted rescission of the separation decision or in its determination that Ms Flores was not entitled to reinstatement (justifying a material award) as her contract was due to expire shortly after receipt of the dismissal letter. UNAT noted that Ms Flores was not informed prior to the interview what the allegations were. Noting that the records indicated that Ms Flores provided the names of witnesses in her response to the charges and that there was no action taken by the Administration to interview such witnesses, UNAT held that the failure of the Administration in this regard was an undeniable breach of Ms Flores' due process rights. On the issue of the UNDT's decision not to order reinstatement due to the forthcoming expiration of Ms Flores' appointment, UNAT recalled that unless the Administration had made an express promise, abused its discretion or was motivated by discriminatory or improper grounds in not extending the appointment, the non-renewal was not unlawful. UNAT held that Ms Flores did not provide a compelling argument warranting any adjustment to the quantum of compensation. UNAT dismissed both the appeal and the cross-appeal and upheld the UNDT judgment.

## **Decision Contested or Judgment/Order Appealed**

Ms Flores contested the decision to separate her from service without termination indemnity as a disciplinary measure for misconduct in the form of fraud. UNDT found for Ms Flores, rescinded the decision, ordered the removal of any references to the sanction from her file, and set an award as an alternative to rescission.

## **Legal Principle(s)**

The trial judge is best placed to assess the nature and evidential value of the information being provided by an applicant to UNDT to justify an award of damages, including pecuniary damages.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Flores

## Entity

WFP

## Case Number(s)

2014-602

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

26 Feb 2015

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Fraud, misrepresentation and false certification

Due process

Termination (of appointment)

Disciplinary sanction

## Applicable Law

Agreements, conventions, treaties (etc.)

- WFP Office of Inspections and Investigations (OSDI) Quality Assurance Manual on Investigations

UNDT Statute

- Article 2.1(c)
- Article 2.1(e)

## Related Judgments and Orders

UNDT/2014/025

2012-UNAT-209

2011-UNAT-153