

2015-UNAT-526, Tintukasiri et al

UNAT Held or UNDT Pronouncements

On the Appellants' request for an oral hearing, UNAT held that it would not assist in the expeditious and fair disposal of the case since the sole issue on appeal was an issue of law (receivability). On the Appellants' request that the appeal be heard by a full bench, UNAT held that neither the President nor any two judges sitting on the appeal found the case raised a significant question of law warranting a full bench and denied the request. UNAT held that: UNDT was competent to review its own competence or jurisdiction; UNDT correctly applied the jurisprudence of UNAT in the definition of administrative decision; and UNDT correctly opined that when UNAT had determined its jurisprudence on a precise legal question, it was not appropriate for UNDT to examine the jurisprudence developed by other jurisdictions. UNAT upheld the UNDT's reasoning that the issuance of secondary salary scales did not amount to an administrative decision and held that UNDT did not make an error of law when it refused to receive the Appellant's claim challenging the issuance of secondary salary scales for staff hired on or after 1 March 2012. UNAT upheld the UNDT's reasoning that the salary freeze did not constitute an administrative decision and that it was a measure with regulatory power that UNDT had no competence to rescind. UNAT held that UNDT did not make an error of law when it refused to receive the Appellants' claim regarding the salary freeze. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicants contested the Secretary-General's decision to accept the Headquarters Salary Steering Committee's recommendations for the promulgation of revised salary scales for the General Service and National Officer categories of staff in Bangkok, that would freeze the salaries for extant staff members and establish a second tier of salaries for staff members hired on or after 1 March 2012. UNDT found that the applications were not receivable ratione materiae.

Legal Principle(s)

UNDT is competent to review its own competence. When UNAT has determined its jurisprudence on a precise legal question, it is not appropriate for UNDT to examine the jurisprudence developed by other jurisdictions. Decisions by which the Secretary-General fixes salary scales are measures with regulatory power which the UNDT has no competence to rescind.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Tintukasiri et al

Entity

UNEP

Case Number(s)

2014-603

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Feb 2015

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Salary

Salary scales

Applicable Law

GA Resolutions

- A/RES/3042(XXVII)
- A/RES/3357(XXIX)
- A/RES/58/254

Laws of other entities (rules, regulations etc.)

Staff Regulations

- Regulation 3.1

UNAT RoP

- Article 18.1

UNAT Statute

- Article 10.1
- Article 10.2
- Article 2.1(a)
- Article 8.3

UNDT Statute

- Article 2.6

Related Judgments and Orders

UNDT/2014/026

2015-UNAT-503

2014-UNAT-410

2014-UNAT-406

2013-UNAT-335

2012-UNAT-269