

2015-UNAT-528, Rantisi

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Commissioner-General of the order rescinding the decision to transfer the Appellant and the moral damages award. On the Commissioner-General's argument that UNDT unduly fettered its discretion to award compensation in lieu of specific performance, UNAT held that, absent any error of law or manifestly unreasonable factual findings, which were not evident, UNAT would not interfere with the discretion vested in UNRWA DT to decide on remedy. UNAT held that, in all of the circumstances of the case, it was not persuaded by the Commissioner-General's argument that UNRWA DT erred in law in affirming its decision to rescind Ms. Rantisi's transfer or that it unduly fettered its discretion. UNAT recalled that as there was no connection to appointment, promotion or termination, there was no requirement to set an amount of compensation as an alternative. UNAT held that UNRWA DT exercised its reasoned discretion to rescind the transfer and UNAT upheld that decision. On the issue of moral compensation, UNAT, having regard to all of the matters of which UNRWA DT was apprised, both in the course of the hearing on the merits and on remedies, and taking particular regard of the medical evidence, found no error of law or fact in the matter in which UNRWA DT assessed damages or the quantum thereof. UNAT dismissed the appeal and upheld the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested a judgment on Remedies which confirmed: the orders to rescind; the decision to issue a letter of written censure; the decision to suspend the Applicant for one week; and the decision to transfer her to a new post. The judgment on Remedies expunged all records of the suspension from the Applicant's file and awarded USD 40,000 for moral damages.

Legal Principle(s)

The decision on remedy is quintessentially a matter for the first instance Tribunal. Absent any error of law or manifestly unreasonable factual findings, UNAT will not interfere with the discretion vested in UNRWA DT to decide on a remedy. Where there is no connection to appointment, promotion or termination, there is no requirement to set an amount of compensation as an alternative to rescission.

Outcome

Appeal dismissed on merits

Outcome Extra Text

Only financial compensation; Only financial compensation

Full judgment

[Full judgment](#)

Applicants/Appellants

Rantisi

Entity

UNRWA

Case Number(s)

2014-605

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Feb 2015

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Remedies

Compensation (see also, Compensation)

Rescission

Applicable Law

UNDT Statute

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

Related Judgments and Orders

2011-UNAT-151

2011-UNAT-131

2010-UNAT-044