

2015-UNAT-587, Faraj

UNAT Held or UNDT Pronouncements

UNAT had before it an appeal by the staff member limited to the award of compensation. UNAT noted that UNRWA DT set the compensation in lieu of reinstatement award by calculating the sum the Appellant would have received for the remainder of his two-year contract, less the amount he received as salaries from other employers during the same period. UNAT held that there was no error in this regard. UNAT held that it was satisfied that in its assessment of compensation in lieu of reinstatement, UNRWA DT was conscious of the Appellant's claims for loss of opportunity. UNAT held that, in view of the large discretion afforded to UNRWA DT in matters related to compensation, UNAT deferred to UNRWA DT when it determined compensatory damages to cover loss of earning and loss of opportunities. UNAT held that, as it found that UNRWA DT did not commit any error of law in its assessment of the compensation award, which UNAT found to be fair and reasonable, UNAT would not interfere with the award. UNAT held that the Appellant's submissions that UNRWA DT erred as a matter of law when it did not included entitlements in its awarded compensation were misconceived, as there was a two-year cap on compensatory damages, noting that UNRWA DT had not recorded any reasons for considering that this was an exceptional case warranting an award higher than two years' net base salary. Noting the two years' net base salary cap, UNAT held that it was irrelevant that, by his own calculation the Appellant may have earned up to USD 98,576, a sum equivalent to more than four years' net base salary. On the Appellant's claim that the award for moral damages of USD 5,000 was paltry compared to other awards for non-pecuniary damages by UNAT, UNAT reiterated that the assessment of compensation was done on a case-by-case basis and according to the discretion of each Tribunal. UNAT held the UNRWA DT did not commit any error of law in its assessment of the compensation award for material and moral damages which were fair and reasonable. UNAT dismissed the appeal and affirmed the judgment of UNRWA DT.

Decision Contested or Judgment/Order Appealed

UNRWA DT: The Applicant contested his termination. UNRWA DT found the contested decision was illegal, ordered its rescission, and awarded compensation for material damages (USD 18,500), which included compensation for loss of opportunity, and moral damages (USD 5,000).

Legal Principle(s)

The assessment of compensation is done on a case-by-case basis and according to the discretion of each Tribunal.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Faraj

Entity

UNRWA

Case Number(s)

2014-683

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2015

President Judge

Judge Adinyira

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Pecuniary (material) damages

Termination (of appointment)

Agreed termination

Applicable Law

UNRWA DT Statute

- Article 10.5

Related Judgments and Orders

2011-UNAT-149

2011-UNAT-131

2012-UNAT-254

2010-UNAT-095

2010-UNAT-044

2012-UNAT-247

2012-UNAT-246

2015-UNAT-501

2013-UNAT-347

2012-UNAT-219

2011-UNAT-117

2013-UNAT-298

2012-UNAT-232