

2016-UNAT-615, Ejaz, Elizabeth, Cherian and Cone

UNAT Held or UNDT Pronouncements

UNAT rejected the request for an oral hearing finding that there was no need for further evidence. UNAT held that UNDT had erred in law and procedure when it did not consider the Appellant's peculiar circumstances by remanding their case to the NYGSCAC for reconsideration. UNAT held that it was impossible for the Appellant's job descriptions to be finalized, since not only the Appellants Ejaz and Elizabeth, but also their supervisors, have all retired from the Organisation, while the Appellants Cherian and Cone have passed away. UNAT held that the case was similar to the related case disposed by UNAT in Aly et al., judgment No. 2016-UNAT-622. UNAT held that the Aly et al. judgment applied, mutatis mutandis, to the instant cases and, as such, paragraphs 30 to 51 thereof were adopted in their entirety. UNAT upheld the appeals partially and affirmed the UNDT judgment partially to reverse the order to remand the case back to the NYGSCAC for reconsideration and award the Appellants compensation.

Decision Contested or Judgment/Order Appealed

The Applicants contested the decision of post reclassification made by the Assistant Secretary-General, Office of Human Resources Management (ASG/OHRM), based on the New York General Service Classification Appeals Committee's (NYGSCAC) recommendations, seeking pecuniary and non-pecuniary damages, as well as legal costs for abuse of proceedings. UNDT found that the decision was flawed and rescinded the ASG/OHRM decision, together with the NYGSCAC recommendations, and ordered a remand of the case for a full and fair consideration of their grounds of appeal to the NYGSCAC, which was to make its recommendations to the ASG/OHRM for her final decision. UNDT, however, dismissed the request for compensation and costs.

Legal Principle(s)

When a reclassification decision is found illegal, and a remand is no longer available, then compensation is owed by the Respondent. UNDT has discretion under Article 10. 5 of its Statute to award compensation where the circumstances, equity, and justice of the case so demand. Article 10. 5 empowers UNDT to rescind a contested administrative decision and to set an amount of compensation or both.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Ejaz, Elizabeth, Cherian and Cone

Entity

DGACM

Case Number(s)

2015-711

2015-712

2015-713

Tribunal

UNAT

Registry

New York

Date of Judgement

24 Mar 2016
President Judge
Judge Adinyira
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Classification (post)
Compensation
Maximum amount / exceptional circumstances
Applicable Law
Administrative Instructions

- ST/AI/1998/9

Agreements, conventions, treaties (etc.)
Staff Regulations

- Regulation 2.1

UNAT Statute

- Article 8.3

UNDT Statute

- Article 10
- Article 10.5
- Article 2.3

Universal Declaration of Human Rights

- Article 23.2

Related Judgments and Orders

UNDT/2015/031
2016-UNAT-622
2010-UNAT-062
2010-UNAT-009
2014-UNAT-399
2011-UNAT-105
UNDT/2010/064
2011-UNAT-107
2010-UNAT-030
2014-UNAT-433/Corr.1
2010-UNAT-092