

2016-UNAT-618, Subramanian et al.

UNAT Held or UNDT Pronouncements

UNAT found that UNDT did not address the staff members' requests for an extension of time and that instead had converted sua sponte the requests for an extension of time into "incomplete" applications, adjudging the applications not receivable. UNAT held that UNDT had not afforded the staff members the opportunity to file an application. UNAT held that UNDT had exceeded its competence and jurisdiction and committed errors in procedure when it determined that the requests for an extension of time were the "equivalent" of applications; inferred that the statements in the requests for an extension of time were the equivalent of claims in an application; and summarily adjudged that the converted "applications" were not receivable. UNAT held that UNDT had violated the staff members' statutory rights to file an application and to have access to justice and, more importantly, violated the staff members' right to due process of law. UNAT vacated the UNDT judgment and remanded the matter to UNDT with directions to permit the staff members to file their applications.

Decision Contested or Judgment/Order Appealed

The Applicants requested an extension of time to file their applications against the decision of [OHRM/International Civil Service Commission] that the comprehensive salary survey conducted in New Delhi, India, in June 2013 found that the current salaries for locally-recruited staff were above the labour market. UNDT reiterated that the decision to freeze the existing salary scales did not constitute an administrative decision for the purpose of art. 2. 1(a) of the UNDT Statute. UNDT decided by way of summary judgment that the applications were not receivable *ratione materiae*.

Legal Principle(s)

A request for an extension of time to file an application is not the same document as an application. UNDT exceeds its competence and jurisdiction and commits errors in procedure when it determines that requests for an extension of time are the "equivalent" of applications.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Subramanian et al.

Entity

DPI

Case Number(s)

2015-718

2015-719

2015-733

2015-784

2015-785

2015-786

Tribunal

UNAT

Registry

New York

Date of Judgement

24 Mar 2016

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNAT)

Manifest excess of jurisdiction

Subject matter (ratione materiae)

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

GA Resolutions

- A/RES/61/261

UNDT RoP

- Article 7.5

UNDT Statute

- Article 8
- Article 8.3

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2015/025