

2016-UNAT-631, Thomas et al.

UNAT Held or UNDT Pronouncements

UNAT considered the appeal from Thomas et al. UNAT found that UNDT had not addressed the Appellants' request for an extension of time but had rather converted sua sponte the request into incomplete applications and summarily adjudged their applications as not receivable. UNAT held that UNDT could not have converted sua sponte the Appellants' request for more time into applications. UNAT held that UNDT had not afforded the Appellants the opportunity to file an application and had committed several procedural errors, exceeded its jurisdiction and competence, and violated the Appellants' due process rights. UNAT reversed the UNDT judgment and remanded the matter to UNDT with directions to permit the Appellants to file their applications.

Decision Contested or Judgment/Order Appealed

The Applicants filed a request for an extension of time to file their applications against the decision of the Office of Human Resources Management/International Civil Service Commission, which found according to a comprehensive salary survey conducted in New Delhi, India, that the current salaries for locally recruited staff were above the labour market. UNDT recalled UNAT's judgment in Tintukasiri et. al. (judgment No. 2015-UNAT-526) and 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 its 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 equivalent to an actual application and shall not be treated as such. The requests for an extension of time were made so that the staff members could obtain the information needed to

prepare an application. In other words, the staff members were not ready to file an application without first obtaining additional information needed to support said application. In such circumstances, however, UNDT is not necessarily required to grant the staff members' requests for an extension of time but shall not sua sponte convert such requests to applications.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Thomas et al.

Entity

UNICEF

Case Number(s)

2015-787

2015-788

2015-789

2015-790

2015-791

2015-792

2015-793

2015-794

2015-795

2015-796

2015-797

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2015-818
2015-832
2015-833
2015-835
2015-836
2015-837
2015-838

Tribunal

UNAT

Registry

New York

Date of Judgement

24 Mar 2016

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Access to justice

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Procedure (first instance and UNAT)

Applicable Law

UNDT Statute

- Article 2.1
- Article 7.5
- Article 8.3

Related Judgments and Orders

UNDT/2015/026