

2016-UNAT-632, Jaishankar

UNAT Held or UNDT Pronouncements

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

Decision Contested or Judgment/Order Appealed

The Applicant filed a request for an extension of time to file their application against the decision which found according to a comprehensive salary survey conducted in New Delhi, India, that the current salaries for locally recruited staff were above the labor 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 its Statute. UNDT decided by way of summary judgment that the application was 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 request for an extension of time was made so that the staff member could obtain the information needed to prepare an application. In other words, the staff member was not ready to file an application without first obtaining additional information needed to support said application. In such circumstances, however, the UNDT is not necessarily required to grant the staff

member's 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

Jaishankar

Entity

UN Women

Case Number(s)

2015-815

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/2015/028