

2017-UNAT-772, Kadri

UNAT Held or UNDT Pronouncements

On the Appellant's claim for his name not to appear in the UNAT judgment, UNAT held that, due to the fact that his name had been in the public domain for a long time as a result of the publication of many court documents related to his cases before UNDT and UNAT, it would be pointless to order redaction. UNAT held that the Appellant failed to give any compelling reason as to why confidentiality should be granted and denied his request for confidentiality. UNAT held that UNDT fully and fairly considered the merits of his case and was in no doubt as to its substance. UNAT held that there was no error by the UNDT in its findings that the Appellant's claim of continued harassment was clearly based on his interpretation of the settlement agreement as permitting him to apply for a job in ESCWA and that the only act of alleged continued harassment and discrimination that he relies on is not being considered for the post of Director. UNAT found no reason to reverse the UNDT's assessment of the evidence. UNAT held that there was no evidence, or pleadings, of any continued harassment or discrimination not associated with the implementation or interpretation of the settlement agreement. UNAT held that there was no need for it to rule on whether the Appellant was correct in his argument that the terms of the settlement agreement entitled him to apply for future positions in ESCWA because, under the applicable law, he was simply out of time to make such a challenge. UNAT held that the application was not receivable as it was filed after the agreement had already been fully implemented and therefore, pursuant to Article 8(2) of the UNDT Statute, it was not subject to judicial review. UNAT held that UNDT was not correct to base its finding of non-receivability on Article 7(4) of its RoP. UNAT held that the Appellant's claim that his personnel file contained adverse material which made it impossible for him to be rehired contradicted the settlement agreement, was not receivable, and lacked merit. Assuming arguendo that the Appellant's claim was receivable, UNAT held that there was no evidence that the Administration had provided any negative information about the Appellant contrary to the terms of the agreement, nor that it had even be contacted by prospective employers. UNAT dismissed the appeal in its entirety and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant claimed harassment, discrimination, that he was unfairly excluded from competing for a post, and that the Official Status File contained adverse materials that imperilled his efforts to secure future employment. UNDT dismissed the application in its entirety, holding the application not receivable as it had been filed out of time. UNDT found that by arguing that he was excluded from being considered for the post despite the settlement agreement allowing him to do so, the Applicant was essentially asking UNDT to order the implementation of the settlement agreement pursuant to Article 7(4) of the UNDT Rules of Procedure. UNDT noted that, under Article 7(4), an application seeking to enforce the terms of a settlement agreement must be filed within 30 days of its signing and therefore the application was not receivable. In addition, UNDT found that the Applicant had tendered the settlement agreement into evidence in violation of the rule on confidentiality contained in Article 15(7) of the UNDT Rules of Procedure.

Legal Principle(s)

A request to redact the name of a party from a UNAT judgment can only be granted where it is necessary to protect the information of a confidential and sensitive nature. A settlement agreement is not subject to judicial review after it has been fully implemented.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Kadri

Entity

ESCWA

Case Number(s)

2017-1053

Tribunal

UNAT

Registry

New York

Date of Judgement

14 Jul 2017

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Discrimination and other improper motives

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Ombudsman / informal resolution

Referral to ombudsman / mediation

Procedure (first instance and UNAT)

Confidentiality

Applicable Law

UNAT Statute

- Article 9.2

UNDT RoP

- Article 7.4

UNDT Statute

- Article 8.2

Related Judgments and Orders

UNDT/2016/211