

2017-UNAT-774, Awe

UNAT Held or UNDT Pronouncements

UNAT held, agreeing with UNDT, that the Administration should have removed the offending minutes, written to all recipients of the minutes withdrawing the damaging allegations against Mr. Awe, and/or simply forwarded the fact-finding panel's report to the participants of the SMT meeting and recipients of the minutes. UNAT held that the reprimand in the offender's file and the private apology did not constitute appropriate relief for the restoration of Mr. Awe's reputation and career. UNAT considered that any action was taken against Mr. Rutgers (managerial or disciplinary) could have only remotely affected Mr. Awe. UNAT noted that there was no legal provision for an award for procedural error. UNAT was satisfied that sufficient evidence was provided to justify the award of compensation for harm to reputation and professional standing; however, noting that UNDT did not take into account that the harm was of a temporary nature, UNAT reduced the award of compensation. UNAT highlighted the importance of compliance with the respective rules, regulations, and/or bulletins, in particular with regard to the referral of the matter to the competent official for disciplinary action and respect of deadlines. UNAT granted the appeal in part, vacating the UNDT judgment insofar as it awarded compensation for procedural error and modifying the award of compensation for harm by reducing it to USD 5,000. UNAT affirmed UNDT's order to remove the offending references in the minutes and to write to all recipients to inform them of the fact-finding panel's findings.

Decision Contested or Judgment/Order Appealed

Mr. Awe contested the manner in which his complaint of harassment and abuse of authority had been dealt with by the Organisation. An investigation had found that his allegations were well-founded and that the conduct in question amounted to possible misconduct. UNDT held that the Special Representatives of the Secretary-General had to refer the matter to the Assistant Secretary-General for Human Resources Management for disciplinary action and that failure to make such a referral was an error of procedure which denied Mr. Awe his contractual right to be afforded the benefit and protection against prohibited conduct. UNDT ordered the removal of the offending references from the minutes of the Senior Management Team (SMT) meeting and the written notification of the fact-finding panel findings to be provided to all recipients of the said minutes, compensation for the procedural error (USD 3,000) and compensation for harm suffered (USD 15,000).

Legal Principle(s)

There is no provision in the UNDT Statute for an award for procedural error. The level of compensation for harm suffered needs to account for whether the harm suffered is temporary in nature or not.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Awe

Entity

OIOS

Case Number(s)

2017-1055

Tribunal

UNAT

Registry
New York
Date of Judgement
14 Jul 2017
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Compensation
Aggravating/mitigating factors
Pecuniary (material) damages
Disciplinary matters / misconduct
Abuse of authority
Harassment (non-sexual)
Remedies
Compensation (see also, Compensation)
Applicable Law
Administrative Instructions
Secretary-General's bulletins

- ST/SGB/2008/5

Staff Rules

- Rule 1.2(q)

Related Judgments and Orders
UNDT/2016/206