

2018-UNAT-811, Aghadiuno

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that the Secretary-General discharged his burden to establish the facts of misconduct by clear and convincing evidence in relation to all the allegations of wrongdoing regarding the special education grants. UNAT held that the evidence proved not only fraud in the form of false accounting, but also the uttering of forged and falsified documents to the Organisation. UNAT held that the staff member's behaviour constituted serious misconduct by which she enriched herself by approximately USD 50,000 at the expense of the Organisation. UNAT held that dishonesty and impropriety of this kind justified summary dismissal without any benefits. UNAT upheld the Secretary-General's appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The staff member contested the decision to summarily dismiss her. UNDT found that there was clear and convincing evidence to substantiate the allegation that the staff member had committed misconduct by submitting requests for special education grants for her children overstating the fees charged by the school and by omitting to declare sibling discounts and scholarships received from the school for three school years. However, UNDT held that the decision to summarily dismiss her from service for fraud was disproportionate, excessive, too severe, and therefore unlawful. UNDT consequently upheld the staff member's application in part, ordered partial rescission of the dismissal decision (to be replaced with separation from service with termination indemnity) or six months' net base salary as an alternative compensation in place of the complete rescission of the dismissal decision.

Legal Principle(s)

Fraud, forgery, and uttering falsified documents to the Organisation constitute serious misconduct. Dishonesty and impropriety of this kind justify summary dismissal without any benefits.

Outcome

Appeal dismissed on merits; Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Aghadiuno

Entity

DGACM

Case Number(s)

2017-1098

2017-1099

Tribunal

UNAT

Registry

New York

Date of Judgement

22 Mar 2018

President Judge

Judge Murphy

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Education grant

Disciplinary matters / misconduct

Disciplinary measure or sanction

Fraud, misrepresentation and false certification

Standard of proof

Termination (of appointment)

Summary dismissal

Applicable Law

Administrative Instructions

- ST/AI/2011/4

Staff Regulations

- Regulation 1.2(b)

Related Judgments and Orders

UNDT/2017/039