

2018-UNAT-890, Mbaigolmem

UNAT Held or UNDT Pronouncements

UNAT considered an application for revision of judgment filed by Mr Mbaigolmem. UNAT held that Mr Mbaigolmem had to prove that he had discovered a decisive fact that was unknown to both him and UNAT at the time of judgment. UNAT held that Mr Mbaigolmem had failed to establish an unknown decisive fact that could warrant revision of the judgment. UNAT dismissed the application for revision of judgment.

Decision Contested or Judgment/Order Appealed

UNAT previous judgment: The Applicant contested the decision to separate him from service on the grounds of disciplinary procedures related to sexual harassment. UNDT found that the disciplinary sanction imposed on the Applicant was unlawful. UNDT ordered the rescission of the disciplinary measure and remanded the decision to the Administration for it to resume the disciplinary procedure. UNDT ordered, as an alternative, in-lieu compensation. In judgment 2018-UNAT-819, UNAT upheld the Secretary-General's appeal and vacated the UNDT judgment finding that the disciplinary measure imposed on the Applicant for his serious misconduct was proportionate.

Legal Principle(s)

Any application which seeks revision of a final judgment rendered by UNAT can only succeed if it fulfills the strict and exceptional criteria established by Article 11. 1. The issuance of a judgment by UNAT does not constitute an unknown decisive fact, apt to support revision. The principles of judicial review applicable in a disciplinary case under Article 2. 1 (b) of the UNDT Statute are well-established. They require consideration of the evidence adduced and the procedures utilized during the investigation by the Administration.

Outcome

Revision, correction, interpretation or execution

Full judgment

[Full judgment](#)

Applicants/Appellants

Mbaigolmem

Entity

UNHCR

Case Number(s)

2018-1183

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Oct 2018

President Judge

Judge Murphy

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Burden of proof

Judgment-related matters

Revision of Judgment

Applicable Law

UN Charter

- Article 101.3

UNAT Statute

- Article 11.1

UNDT Statute

- Article 2.1(b)

Related Judgments and Orders

2018-UNAT-819