

# 2019-UNAT-898, Amarah

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal by Mr Amarah and the cross-appeal of the Commissioner-General of UNRWA against judgment No. UNRWA/DT/2018/041 and judgment No. UNRWA/DT/2018/004. UNAT held that the issues pertaining to the CSO selection process and the contention that UNRWA had waived the condition of the 18-month separation after the EVS were not properly before it, as they had not been raised before UNRWA DT and were therefore not receivable. Noting that Mr Amarah had breached the prohibition of employment, UNAT held that he could not be allowed to breach the rules knowingly, engage in unlawful activity, and then seek compensation. UNAT held that UNRWA DT erred in apportioning the liability as it had. UNAT held that there was no evidence to support a claim for moral damages. UNAT dismissed the appeal, granted the Commissioner-General's cross-appeal, and vacated both UNRWA DT judgments.

## Decision Contested or Judgment/Order Appealed

Mr Amarah contested the decision to cancel his fixed-term appointment, which was taken on the basis that it was in breach of UNRWA's legal framework on Exceptional Voluntary Separation (EVS). Mr Amarah had taken EVS and then, in breach of its terms, taken up employment as a Camp Services Officer (CSO) during the period when reemployment was prohibited. UNRWA DT found that the appointment of Mr Amarah as CSO had been unlawful and that both UNRWA and the Applicant were liable for the consequences, awarding Mr Amarah material and moral damages, apportioning liability at 25 per cent to Mr Amarah.

## Legal Principle(s)

New issues cannot be introduced for the first time on appeal. He that comes to equity must come with clean hands. A staff member cannot be allowed to breach the

rules knowingly, engage in unlawful activity, and then seek compensation. In general, compensation for harm must be supported by evidence.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Amarah

## Entity

UNRWA

## Case Number(s)

2018-1188

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

29 Mar 2019

## President Judge

Judge Felix

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

## Applicable Law

UNRWA Personnel Directives

- PD A/9/Rev.10