

2019-UNAT-935, Jenbere

UNAT Held or UNDT Pronouncements

UNAT held that the appeal was entirely without merit. UNAT held that UNDT was correct to find that the facts supporting the disciplinary measure had been established and to conclude that those facts amounted to misconduct. UNAT supported the reasoning of UNDT in rejecting the Appellant's attempts at exoneration, namely that factors such as whether or not her husband was qualified for the job or the other candidate secured another position did not change the existence of a conflict of interest and the way in which the integrity of the process was compromised. UNAT held that UNDT correctly found that the disciplinary measure was imposed before the Appellant's resignation became effective, so she was still subject to the Staff Regulations and Rules when the sanction was issued. On the issue of the Appellant's claims regarding her separation and other entitlements, UNAT held that UNDT correctly found that those claims did not identify concrete administrative decisions and had not been submitted for management evaluation and as such, were not properly before UNDT. UNAT held that the Appellant's claim of racism was totally baseless. UNAT opined that the disciplinary measure imposed upon the Appellant was too lenient and that she should have faced summary dismissal. Her misconduct compromised the objectivity and integrity of the selection process and had the potential to damage the reputation of the Organisation and that of the other staff members involved in the selection exercise. UNAT held that the Appellant failed to establish that the UNDT made any errors of fact or law. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to demote her by one grade with a deferment for two years of eligibility for consideration for promotion and to impose a fine on her. The Applicant had failed to disclose that the candidate for a UNV position for which she was involved in the recruitment process, including recommending him for the position, was her husband. UNDT dismissed the application, finding that the facts had been correctly established, that the facts legally amounted to misconduct, and that the sanction of demotion in addition to a fine was not disproportionate, considering the special circumstances created by the Applicant's subsequent resignation.

Legal Principle(s)

A conflict of interest occurs when a staff member's personal interests interfere with the integrity, independence, and impartiality required by the staff member's status as an international civil servant.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Jenbere

Entity

UNOCI

Case Number(s)

2019-1231

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jun 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Facts (establishment of) / evidence

Applicable Law

Administrative Instructions

- ST/AI/273

Staff Regulations

- Regulation 1.2(b)
- Regulation 1.2(m)
- Regulation 4.7(c)

UNAT RoP

- Article 18.1

UNAT Statute

- Article 8.3

Related Judgments and Orders

UNDT/2019/010