

2020-UNAT-1001, Applicant

UNAT Held or UNDT Pronouncements

UNAT held that the Appellant failed to demonstrate exceptional circumstances warranting the admission of additional evidence on appeal. UNAT found no errors in the UNDT's analysis that there were no procedural flaws in the investigation that impacted the Appellant's rights. UNAT found no errors in UNDT's finding that the Administration had the discretion to initiate disciplinary proceedings. UNAT held that the Administration could neither be compelled to initiate disciplinary proceedings nor impose the reasonable accommodation requested by the Appellant, namely no contact with his First Reporting Officer. UNAT held that the award of compensation by UNDT was fair and reasonable. UNAT held that, given the case concerned an allegation of harassment and relied on medical evidence to support a claim for physical and moral harm, it was reasonable to redact the Appellant's name from the judgment. UNAT dismissed the appeal and affirmed the UNDT judgment. UNAT ordered the Appellant's name to be redacted from the judgment and any public pronouncement of the decision.

Decision Contested or Judgment/Order Appealed

The staff member contested the Administration's decision not to pursue disciplinary action against his First Reporting Officer following the staff member's complaint of harassment and abuse of authority. UNDT was not persuaded by the Appellant's allegations of a lack of transparency in the investigation process, a breach of confidentiality during the investigation, and a lack of evidence of any managerial actions. UNDT concluded that, while the investigation was proper, it was cumbersome and untimely and awarded the staff member moral damages as compensation for the serious impact on the staff member's well-being and mental health and the close link between the delays in handling his complaint and the stress and anxiety that he suffered.

Legal Principle(s)

The institution of disciplinary proceedings against a staff member is the privilege of the Administration, and it is not legally possible to compel the Administration to take disciplinary action. To warrant compensation, there must be supporting evidence beyond the staff member's testimony.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

OIOS

Case Number(s)

2019-1315

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Mar 2020

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Disciplinary matters / misconduct

Abuse of authority

Harassment (non-sexual)

Investigation

Applicable Law

Administrative Instructions

- ST/AI/371
- ST/AI/371/Amend.1

Secretary-General's bulletins

- ST/SGB/2008/5

UNAT Statute

- Article 10.9
- Article 2.1(a)

UNDT Statute

- Article 10.5(b)

Related Judgments and Orders

UNDT/2019/129

2017-UNAT-742

2018-UNAT-874

2010-UNAT-100

2015-UNAT-505