

2020-UNAT-1045, Nicholas

UNAT Held or UNDT Pronouncements

UNAT held that the appeal was receivable on the basis that the Appellant was not challenging the new scheme for education grant introduced by the General Assembly, but rather the manner in which it was implemented in her specific case and the way in which the Secretary-General interpreted General Assembly Resolution 70/244. UNAT held that UNDT did not err in deciding that the Appellant did not have an acquired right to all of the previous education benefits she had enjoyed. On the question of the Appellant's access to a discretionary consideration of her claims on exceptional grounds, UNAT held that the Staff Regulation (as amended) excluded boarding claims for dependent tertiary students in circumstances such as the Appellant's. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to pay boarding and travel-related expenses for tertiary education in respect of her two dependent children. UNDT found the Applicant's claims receivable. However, UNDT found against the Applicant on the merits, essentially because her circumstances fell outside the recently modified eligibility criteria for such assistance. UNDT also rejected her alternative case that she was entitled to rely on previously acquired rights to such assistance.

Legal Principle(s)

Acquired rights are to be distinguished from contractual rights. Acquired rights may include contractual rights, but also may comprise a bundle of enhanced employment contractual rights. An acquired right must be a right that has vested.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Nicholas

Entity

UNOV

Case Number(s)

2020-1391

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2020

President Judge

Judge Colgan

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Education grant

Education grant travel

Discretionary authority

Applicable Law

GA Resolutions

- A/RES/70/244
- A/RES/72/254

Staff Regulations

- Regulation 12.1
- Regulation 3.2

Related Judgments and Orders

UNDT/2020/039

2018-UNAT-840