

2020-UNAT-1065, Alquza

UNAT Held or UNDT Pronouncements

UNAT held that a SPA can only be granted if the conditions of ST/AI/1999/17 are met, inter alia, that the staff member has been assigned to and discharged the full functions of a post which has been both classified and budgeted at a higher level, and that these prerequisites were not met. UNAT held that the denial of the ex gratia payment was lawful. UNAT held that the Administration did not commit any errors in exercising its discretion. UNAT held that the denial of an ex gratia payment did not violate the principle of equal pay for equal value and did not constitute discrimination. UNAT held that the Appellant did not belong to the category of staff who was entitled to receive a SPA and that the different treatment was lawful because different categories of staff members were concerned. Noting that Rule 2008 of the UN Women Financial Regulations and Rules contained a moral rather than a legal obligation, UNAT opined that any decision on ex gratia payments under Financial Rule 2008 might not produce any direct legal effects and thus could not be regarded as an administrative decision. Noting that no exceptional emergency circumstances existed in the Appellant's case and UN Women had restricted the application of Financial Rule 2008 to very exceptional circumstances, UNAT considered that the Secretary-General correctly exercised his discretion in refusing to pay an amount equivalent to the SPA as an ex gratia payment. UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

The Applicant contested the Administration's refusal to grant her an ex gratia payment in lieu of a Special Post Allowance (SPA) for assuming additional responsibilities starting in 2014. UNDT found no legal basis for awarding an ex gratia payment and dismissed the application.

Legal Principle(s)

When adjudicating the validity of the Organisation's exercise of discretion in administrative matters, UNDT determines if the decision is legal, rational, procedurally correct, and proportionate. Equal pay for work of equal value forbids discrimination but does not prohibit every form of different treatment of staff members. Different treatment of staff members constitutes discrimination only when there is no lawful and convincing reason, therefore.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Alquza

Entity

UN-WOMEN

Case Number(s)

2020-1377

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2020

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45
Special Post Allowance

Applicable Law

Administrative Instructions

- ST/AI/1999/17

Laws of other entities (rules, regulations etc.)

- UN WOMEN Financial Regulation and Rules

Staff Rules

- Rule 12.3(b)
- Rule 3.10

Related Judgments and Orders

UNDT/2020/010

2019-UNAT-922

2011-UNAT-107

2011-UNAT-177

2010-UNAT-084

2016-UNAT-704