

2020-UNAT-1069, Civic

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General and a cross-appeal by Ms Civic limited to the extent to which UNDT dismissed her claim of compensation for pecuniary damage (loss of opportunity). On loss of opportunity, UNAT held that UNDT did not err when it found that the irregularity of cancelling the Appellant's performance appraisal and the failure to promptly issue another one did not suffice to demonstrate a significant chance or realistic prospect of her retaining another position within the Organisation. UNAT held that the irregularity was inconsequential for the purposes of the Appellant's selection for any of the posts for which she applied, in particular since the evidence showed that the Appellant's Personal History Profile had been shared with the hiring managers and, thus, the lack of a performance appraisal "was not a concern" in the selection procedures. Therefore, UNAT did not allow for compensation for pecuniary damages. On moral damages (non-pecuniary damages), UNAT held that, by failing to take protective measures earlier and thus exposing the Appellant to harmful working conditions for a considerable amount of time, the Administration failed in its duty of care. UNAT held that compensation should be awarded to alleviate the harm if it was supported by evidence. UNAT held that UNDT was correct in concluding that, as a result of the illegal decisions by the Administration, the Appellant experienced insult to her dignity, humiliation before her colleagues, impossibility to fully utilize her qualifications and insecurity of her job, leading to disappointment, demoralization, anxiety and a negative impact on her physical health and that these effects constitute compensable non-pecuniary damage. UNAT held that there was no need for medical expertise to conclude that continuous anxiety can be harmful to one's health. UNAT held that the amount of compensation awarded by UNDT was compatible with the jurisprudence, given the context in which the illegality took place and its detrimental effects on the Appellant's state of mind, dignity, and personhood. UNAT dismissed the appeal, dismissed the cross-appeal, and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested her alleged constructive dismissal due to a manager's decision to deprive her of her core functions. UNDT partially granted the application. UNDT was satisfied that the impugned decision resulted in non-pecuniary damage to the Appellant. UNDT awarded six months' net base salary as compensation for moral damage.

Legal Principle(s)

Corroborating evidence is needed to support a claim for moral or non-pecuniary harm, but there is no requirement for it to be of a medical nature.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Civic

Entity

UNMIL

Case Number(s)

2020-1371

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2020

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Pecuniary (material) damages

Evidence

Corroboration/hearsay

Medical evidence

Applicable Law

Secretary-General's bulletins

- ST/SGB/2017/2/Rev.1

Related Judgments and Orders

UNDT/2019/188

2018-UNAT-858

2017-UNAT-742

2020-UNAT-1040

2017-UNAT-764

2013-UNAT-309

