

2021-UNAT-1104, George Naoum

Azar

UNAT Held or UNDT Pronouncements

UNDT misapplied the law of mootness and erred in law in reaching the impugned Judgment, in that it omitted to follow an important passage in Kallon relating to the cautious approach in applying the law of mootness.

Decision Contested or Judgment/Order Appealed

The decision to withhold final remuneration entitlements pending settlement of; indebtedness and withhold notification of separation from service to the pension fund

Legal Principle(s)

UNAT in Kallon included an important passage relating to the cautious approach that must be taken to applying the law of mootness to dismiss cases without hearing them on their merits. While it was a discretionary power for the Administration to withhold separation payments and to not forward the documentation to the pension fund, it does not mean that its exercise in Mr Azar's case was lawful. Considerations such as proportionality of its exercise, both as to the amounts withheld and the length of their retention, are open to judicial review and there may well be other grounds of challenge.

Outcome

Appeal granted

Outcome Extra Text

Appeal granted, Judgment No. UNDT/2020/067 vacated, and Mr Azar's claims for compensation for wrongful retention by the Administration of his entitlements upon his resignation were remanded to UNDT for a decision on their merits by a different Judge.

Full judgment

[Full judgment](#)

Applicants/Appellants

George Naoum Azar

Entity

UNIFIL

Case Number(s)

2020-1394

Tribunal

UNAT

Registry

New York

Date of Judgement

19 Mar 2021

President Judge

Judge Colgan

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Applicable Law

Administrative Instructions

- ST/AI/155/Rev.2
- ST/AI/2009/1

Staff Rules

- Rule 3.18(c)(ii)

UNDT Statute

- Article 8.1(c)

UNJSPF Regulations

- Article 48

Related Judgments and Orders

UNDT/2020/067

UNDT/2011/211