

2021-UNAT-1133, Secretary-General of UN

UNAT Held or UNDT Pronouncements

The UNDT erred in fact in concluding that the ABCC had solely and exclusively rested upon the MSD's medical report, and the UNDT exceeded its competence in stating that the time limit under Article 12 of Appendix D would only start to run from the moment when the psychological symptoms were so severe that the patient acknowledged that his/her syndrome no longer allowed him/her to fulfill his/her professional obligations. In the light of the facts that the Applicant was able to return to his high level of functioning at work after he had been transferred out of HATIS on 1 December 2013, that it was not necessary for him to "recount his trauma" in order to file an Appendix D claim, that the Applicant's psychiatrist did not state that the Applicant was not able to fill out and file an Appendix D claim, and that he had invoked his PTSD several times in the context of pursuing advantages (sick leave, etc.), the Appeals Tribunal found that it was legitimate and reasonable for the Administration to not grant the Applicant a waiver of the four-month deadline to file an Appendix D claim on the basis of exceptional circumstances. The rescission of the contested decision by the UNDT and the subsequent remand of the compensation claim to the ABCC was erroneous.

Decision Contested or Judgment/Order Appealed

UNDT/2020/116/Corr.1, in which UNDT rescinded the decision by the ABCC to reject the Applicant's Appendix D claim as time-barred, remanded the case to the ABCC and awarded the Applicant three-months' net base salary for procedural delay as well as USD 20,000 for additional harm.

Legal Principle(s)

Under the applicable legislative framework, the Secretary-General is bestowed with the discretionary authority to determine whether to grant a waiver of the four-month deadline to file a compensation claim to the ABCC on the basis of exceptional circumstances. In compliance with the stated principles of judicial review, the exercise of discretion must be warranted on the basis of reliable facts and be reasoned in order for the Tribunals to have the ability to perform their judicial duty to review administrative decisions and to ensure protection of individuals, which otherwise would be compromised.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Secretary-General of UN

Entity

UNICEF

Case Number(s)

2020-1451

Tribunal

UNAT

Registry

New York

Date of Judgement

25 Jun 2021

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements-45

Compensation for injury, illness or death attributable to service (Appendix D to Staff Rules)

Applicable Law

Staff Rules

- Appendix D

Related Judgments and Orders

2019-UNAT-915

2018-UNAT-814

2018-UNAT-849