

2021-UNAT-1177, Veronica Modey-Ebi

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by Ms. Modey-Ebi. UNAT noted that the issues in the appeal were entirely factual, most of which were resolved on the evidentiary record which in most respects established a pattern of misconduct justifying dismissal. UNAT noted that while some of the proven allegations against Ms. Modey-Ebi were less serious than others, cumulatively they revealed a pattern of unethical conduct indicating that Ms. Modey-Ebi was not suited for the senior position she held. Her behaviour revealed a lack of propriety and integrity and her behaviour was inconsistent with her duties under Staff Regulation 1.2(b), Staff Regulation 1.2(f), Staff Regulation 1.2(g) and Staff Regulation 1.2(i). UNAT found that the UNDT did not err in holding that the disciplinary measure imposed was proportionate to the offence. The established misconduct revealed a serious lack of judgement and arrogance that was inconsistent with the ethos of UNHCR and the behaviour required in the elevated position she occupied; and in reaching his decision, the High Commissioner took into account the circumstances of the case, including aggravating and mitigating circumstances, as well as prior practice in relation to disciplining such misconduct. Ms. Modey-Ebi engaged in an egregious abuse of authority and violated the duties of independence, neutrality, and impartiality expected of an international civil servant and breached trust to the extent that the continuation of an employment relationship became intolerable and infeasible such that dismissal was the only proportionate sanction. The UNDT also correctly concluded that there were no procedural irregularities and that Ms. Modey-Ebi was afforded due process. Finally, the failure of the UNDT to rule on Ms. Modey-Ebi's application for costs was inconsequential, since there was nothing on record which suggested that the High Commissioner abused the proceedings. UNAT dismissed the appeal in its entirety.

Decision Contested or Judgment/Order Appealed

In Judgment No. UNDT/2020/185, the UNDT dismissed the application by Ms. Modey-Ebi challenging the High Commissioner's decision to dismiss her from service pursuant to Staff Rule 10.2(a)(ix) for serious misconduct. The UNDT found that clear and convincing evidence established thirteen allegations of misconduct, that the investigation process had complied with the applicable legal framework and the disciplinary measure of dismissal was proportionate. The proven allegations included: the harassment or abuse of her subordinates; instructing subordinates to do her child's school homework; abusing her subordinates by instructing them to do her personal chores or to prepare motivation letters in support of her various job applications; breaching the rules governing performance appraisals; instructing subordinates to carry out her academic work; using diplomatic channels and her status for her personal advantage and benefit; inappropriate communications with senior government officials in the host country; and disclosing official information to persons not entitled to it.

Legal Principle(s)

In disciplinary cases the Appeals Tribunal will examine: i) whether the facts on which the disciplinary measure is based have been established; ii) whether the established facts amount to misconduct; iii) whether the sanction is proportionate to the offence; and iv) whether the staff member's due process rights were respected.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Veronica Modey-Ebi

Entity
UNHCR
Case Number(s)
2020-1503
Tribunal
UNAT
Registry
New York
Date of Judgement
29 Oct 2021
President Judge
Judge Murphy
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Disciplinary matters / misconduct
Abuse of authority
Disciplinary measure or sanction
Discrimination (see category: discrimination)
Dismissal/separation
Facts (establishment of) / evidence
Inappropriate or disruptive behaviour
Investigation (see category: Investigation)
Misuse of office
Proportionality of sanction
Breach of duties of independence, neutrality, and impartiality
Abuse of privileges and immunities
Prohibited activity under ST/SGB/2004/15 (Use of Information and Communication Technology Resources and Data)
Due process
Investigation
Due process
Applicable Law
Staff Regulations

- Regulation 1.1
- Regulation 1.2(b)
- Regulation 1.2(f)
- Regulation 1.2(g)
- Regulation 1.2(i)
- Regulation 1.1(b)

Staff Rules

- Rule 10.2(a)
- Rule 10.2(a)(ix)

UNDT Statute

- Article 10.6