

UNDT/2022/028, Chernov

UNAT Held or UNDT Pronouncements

In this case, the Administration initially decided that the Applicant was eligible for a prorated amount of lump-sum boarding allowance, but during the management evaluation process, the Administration found the previous decision erroneous and decided that the Applicant was in fact not entitled to any boarding allowance. Therefore, the decision subject to judicial review in this case is the Administration's decision to find him ineligible for any boarding allowance. It is clear that under staff regulation 3.2 and Appendix B to the Staff Regulations and Rules, eligible staff members are only entitled to receive payment for boarding expenses when a child is actually boarding to attend school, regardless of whether a staff member is entitled to regular or special education grant. Any other interpretation of relevant administrative issuances (ST/AI/2018/1/Rev.1 and ST/AI/2018/2) would conflict with staff regulation 3.2 and Appendix B to the Staff Regulations and Rules, which are the higher norms in the legal framework. Accordingly, the Tribunal finds that the Administration correctly decided, through management evaluation, that the Applicant was not entitled to lump-sum payment of USD5,000 for boarding expenses as his child was not boarding to attend school.

Decision Contested or Judgment/Order Appealed

The Administration's decision that he is not entitled to payment for the lump-sum boarding allowance of USD5,000 he requested for his dependent child

Legal Principle(s)

Management evaluation is a vital component of our system for the administration of justice. The purpose of management evaluation is to afford the Administration the opportunity to correct any errors in an administrative decision so that judicial review of the administrative decision is not necessary. The interpretation of a rule is made

within the context of the hierarchy in which the rule appears. In general terms, administrative issuances set out instructions and procedures for the implementation of the Staff Regulations and Rules. Just as a Staff Rule may not conflict with the Staff Regulation under which it is made, an administrative issuance may not conflict with the applicable Staff Regulation or Rule which it implements.

Outcome

Dismissed on merits

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Chernov

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2021/23

Tribunal

UNDT

Registry

New York

Date of Judgement

23 Mar 2022

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Applicable Law

Administrative Instructions

- ST/AI/2018/1/Rev.1

Staff Regulations

- Regulation 3.2

Related Judgments and Orders

2021-UNAT-1175