

2022-UNAT-1222, Ahmad Mudardas

UNAT Held or UNDT Pronouncements

UNAT affirmed the UNRWA DT Judgment. Regarding the deduction of a sum of money from his separation benefits, UNAT agreed that this claim was not first submitted for decision review. Regarding his separation from service without termination indemnity, UNAT also found no error in the UNRWA DT Judgment. The Tribunal agreed with the UNRWA DT that the bank statement did not contain the correct amount and that the invoices he submitted did not relate to genuine purchases. UNAT was satisfied that: (i) the facts on which the disciplinary measure was based had been established by clear and convincing evidence; (ii) the established facts amounted to misconduct; (iii) the sanction was proportionate to the offense; and (iv) the staff member's due process rights were respected. Accordingly, it dismissed the appeal and affirmed the UNRWA DT Judgment.

Decision Contested or Judgment/Order Appealed

An investigation into allegations of corruption concluded that there was sufficient evidence that a staff member submitted false accounts, committed fraud by false representation and stole money from the school budget. After he was formally charged with misconduct, the staff member responded to the Charge Letter. Thereafter, the Administration imposed the disciplinary measure of separation from service without termination indemnity. The Administration also deducted a sum of money from the staff member's separation benefits as reimbursement to the Agency. The staff member appealed to the UNRWA Dispute Tribunal, which dismissed his application finding that the imposition of the disciplinary measure was lawful. Regarding the deduction of a sum of money from his separation benefits, the UNRWA Dispute tribunal noted that the staff member had not raised this claim at the decision review level. The UNRWA Dispute Tribunal agreed with the conclusions of the investigation that: (i) the staff member submitted an edited bank statement in an attempt to conceal his fraud, and (ii) he also submitted false invoices as genuine purchases, and the vendors declined their authenticity.

Legal Principle(s)

In disciplinary cases, the tribunals have to examine: (i) whether the facts on which the disciplinary measure is based have been established (by a preponderance of evidence, but where termination is a possible sanction, the facts must be established by clear and convincing evidence); (ii) whether the established facts amount to misconduct; (iii) whether the sanction is proportionate to the offense; and (iv) whether the staff member's due process rights have been respected

Outcome

Dismissed on merits

Outcome Extra Text

The appeal is dismissed, and the UNRWA DT Judgment is affirmed.

Full judgment

[Full judgment](#)

Applicants/Appellants

Ahmad Mudardas

Entity

UNRWA

Case Number(s)

2021-1531

Tribunal

UNAT

Registry

New York

Date of Judgement

18 Mar 2022

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary measure or sanction
Dismissal/separation
Fraud, misrepresentation and false certification
Theft and misappropriation
Right to a hearing
Management Evaluation
Disciplinary sanction
Investigation
Disciplinary matters / misconduct
Due process
Jurisdiction / receivability (UNDT or first instance)
Termination (of appointment)

Applicable Law

UNRWA DT RoP

Related Judgments and Orders

2019-UNAT-918

2019-UNAT-974

2018-UNAT-819