

2022-UNAT-1233, null Secretary-General

UNAT Held or UNDT Pronouncements

The Secretary-General appealed. UNAT allowed the Secretary-General's appeal and set aside the UNDT's Judgment. UNAT held that the correct way to make the comparison to ensure that the minimum increase in net base salary under Staff Rule 3.4(b) is achieved for the staff member is to compare both remunerations shorn of their COL and post adjustment elements and of Ms. Gonzalez Vasquez's assessments under each. UNAT found that although not perfect because of the potential variability of Ms. Gonzalez Vasquez's personal assessments under each, it achieves the required comparator using the GS net base salary and ensures a like-for-like (or apples-with-apples) comparison. UNAT held that when the correct comparison of net base salaries was applied, Ms. Gonzalez Vasquez's remuneration in her P-2 role had not miscalculated.

Decision Contested or Judgment/Order Appealed

Before the UNDT, Ms. Gonzalez Vasquez claimed that he had been wrongly placed at Step 1 at the P-2 level following a promotion from her G-6 level, Step 11, and in particular that any post adjustment should not have been part of her base salary calculation. The UNDT found that the case turned on the interpretation of Staff Rule 3.4(b) (and in particular on the words "net base salary" within it). The UNDT identified the subsequent "key question" as being whether it was lawful to include the P category post adjustment payment in the calculation of net base salary when determining what step she was to be remunerated at. The UNDT concluded that it was unlawful for the Headquarters Client Services Service to take post adjustment into account when deciding Ms. Gonzalez Vasquez's step following her promotion from G-6, Step 11 to the P-2 level. This was said because, as the UNDT expressed it, "'net base salary' is correctly determined as 'gross base salary', as per the offer of appointment, minus staff assessment". Remedially, Ms. Gonzalez-Vasquez was

awarded specific performance of her contract's remuneration provisions as interpreted by the Tribunal.

Legal Principle(s)

None.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

null Secretary-General

Entity

UN Secretariat

Case Number(s)

2021-1551

Tribunal

UNAT

Registry

New York

Date of Judgement

18 Mar 2022

President Judge

Judge Colgan

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Salary

Applicable Law

Former Staff Rules

- Rule 103.9

Staff Rules

- Rule 9.9
- Rule 13.11
- Rule 3.4
- Rule 3.5

Related Judgments and Orders

2010-UNAT-076

2018-UNAT-840

UNDT/2018/050

UNDT/2017/097

2021-UNAT-1107

2010-UNAT-083

UNDT/2010/043