

UNDT/2022/108, Nair

UNAT Held or UNDT Pronouncements

The Tribunal found that the sanction in this case bore no rational connection or suitable relationship to the evidence on the record and the purpose of progressive or corrective discipline. The Applicant's messages were mainly reactionary, and he showed great piteance in not responding to the complainant's tone. The Applicant was provoked. The Applicant identified no special circumstances which would warrant the anonymization of this matter, apart from potential personal embarrassment and discomfort, which were not sufficient grounds to grant anonymity.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Administration's decision to impose on him disciplinary and administrative measures for engaging in email communication using unacceptable language with another staff member.

Legal Principle(s)

Judicial review is focused on how the decision-maker reached the impugned decision (see Sanwidi 2010-UNAT-084 and Santos 2014-UNAT-415). The Appeals Tribunal has also determined what the role of this Tribunal is when reviewing disciplinary cases (see Mahdi 2010-UNAT-018 and Haniya 2010-UNAT-024). An official decision without the requisite delegated authority is axiomatically unlawful and cannot stand. The names of litigants are routinely included in judgments of the internal justice system of the United Nations in the interests of transparency and accountability, and personal embarrassment and discomfort are not sufficient grounds to grant confidentiality. Public dissemination of the appellate judgments helps to assure there is transparency in the operations of the Appeals Tribunal. It also means, sometimes fortunately and other times unfortunately, that the conduct of individuals

who are identified in the published decisions, whether they are parties or not, becomes part of the public purview (Buff 2016-UNAT-639).

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Nair

Entity

ECA

Case Number(s)

UNDT/NBI/2021/55

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

7 Oct 2022

Duty Judge

Judge Buffa

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary measure or sanction

Non-disciplinary/administrative measures

Disciplinary matters / misconduct

Applicable Law

Administrative Instructions

- ST/AI/2007/1

Secretary-General's bulletins

- ST/SGB/2008/5
- ST/SGB/2019/8

Staff Regulations

- Regulation 1.2

Staff Rules

- Rule 1.2

Related Judgments and Orders

2010-UNAT-084

2014-UNAT-415

2010-UNAT-018

2010-UNAT-024

2016-UNAT-639
UNDT/2020/195