

2023-UNAT-1343, Ann-Christin

Raschdorf

UNAT Held or UNDT Pronouncements

The UNAT dismissed the appeal. The UNAT held that the UNDT correctly found not receivable Ms. Raschdorf's application with respect to the non-renewal decision and the ABCC's decision given Ms. Raschdorf's failure to request management evaluation. The UNAT found that contrary to Ms. Raschdorf's contention, the non-renewal decision was not taken subsequent to advice from a technical body. As to the ABCC's decision on whether the claim was time-barred, the UNAT found that that decision was not based on a consideration of a medical evaluation but was concerned with the timeliness of the application and thus with an administrative aspect of the ABCC's work. The requirement for management evaluation therefore applied to both decisions. As to the decision not to recommend Ms. Raschdorf for a disability benefit to the UNSPC, the UNAT held that the Dispute Tribunal did not err in fact or law in finding that Ms. Raschdorf had not demonstrated that DHMOSH committed any procedural errors in arriving at the contested decision.

Decision Contested or Judgment/OrderAppealed

Ms. Raschdorf, a former staff member of UNAMI, contested three administration decisions: (i) the administrative decision not to renew her fixed-term appointment beyond 31 May 2019; (ii) the 1 September 2020 decision of the Division of Healthcare Management and Occupational Safety and Health (DHMOSH) not to recommend her for a disability pension to the United Nations Staff Pension Committee (UNSPC); and (iii) the 5 November 2020 decision of the Advisory Board on Compensation Claims (ABCC) to reject her claim for compensation on the ground that her claim was time-barred. In Judgment No. UNDT/2022/004, the UNDT dismissed all three applications having found that the applications regarding the non-renewal decision and the ABCC decision were not receivable *ratione materiae* because she failed to submit them for management evaluation, and the DHMOSH

decision was legal, rational, and procedurally correct. Ms. Raschdorf appealed.

Legal Principle(s)

Staff Rule 11.2(a) confirms that staff members wishing to formally contest an administrative decision alleging non-compliance with their contract of employment or terms of appointment, including all pertinent Regulations and Rules pursuant to Staff Regulation 11.1 (a), shall, as a first step, submit to the Secretary-General in writing a request for a management evaluation of the administrative decision. The Appeals Tribunal has consistently held that, except for decisions made pursuant to advice from technical bodies and disciplinary decisions, requesting management evaluation is a required first step in the process. The Dispute Tribunal cannot waive this requirement. A claim for compensation under Appendix D is separate from claims for disability benefits from the UNJSPF and not dependent on the outcome of UNJSPF claims. Decisions related to the timeliness of applications to the ABCC are regular administrative decisions that must be submitted for management evaluation because they address the administrative, rather than medical, aspects of the ABCC's work. When judging the validity of the Secretary-General's exercise of discretion in administrative matters, the Dispute Tribunal determines if the decision is legal, rational, procedurally correct, and proportionate. The UNDT can consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse. But it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to him. Nor is it the role of the Dispute Tribunal to substitute its own decision for that of the Secretary-General. Article 33(a) of the UNJSPF Regulations requires proof of incapacitation before a recommendation can be made to the UNSPC for a disability pension. It provides that "[a] disability benefit shall, subject to article 41, be payable to a participant who is found by the Board to be incapacitated for further service in a member organization reasonably compatible with his or her abilities, due to injury or illness constituting an impairment to health which is likely to be permanent or of long duration". Incapacitation is a purely medical issue to be proven by medical evidence and once the Dispute Tribunal decides that the procedure for presenting a medical opinion to the Secretary-General was flawed, the only proper course for it to take, since the issue was a medical one, is to remand the case back to the ABCC to convene a medical board to consider the original determination.

Outcome

Appeal dismissed on merits

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Ann-Christin Raschdorf

Entity

UNAMI

Case Number(s)

2022-1668

Tribunal

UNAT

Registry

New York

Date of Judgement

11 May 2023

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Management Evaluation

Subject matter (ratione materiae)

Disability

Jurisdiction / receivability (UNDT or first instance)

United Nations Joint Staff Pension Fund (UNJSPF)

Applicable Law

Administrative Instructions

- ST/AI/2005/3
- ST/AI/2019/1

Staff Regulations

- Regulation 11.1(a)
- Appendix D

Staff Rules

- Rule 11.2

UNDT Statute

- Article 8.1(c)

UNJSPF Regulations

- Article 33(a)

Related Judgments and Orders

2022-UNAT-1229

2020-UNAT-1002

2019-UNAT-960

2019-UNAT-902

2015-UNAT-601