

UNDT/2023/082, Munywoki

UNAT Held or UNDT Pronouncements

The Tribunal, based on the evidence on the record, established that there was clear and convincing evidence that the Applicant was involved in the fraudulent scheme and in the attempt to interfere with the investigation into that scheme by inducing a witness to lie to investigators.

Regarding misconduct, the Tribunal concluded that it was clear that the established facts qualified as serious misconduct.

On the due process prong, the Tribunal concluded that the Applicant's due process rights were respected during the investigation and disciplinary process.

On whether the sanction was proportionate to the offence, the Tribunal recalled that defrauding the United Nations is a very serious offence and that a staff member who contravenes the Financial Regulations and Rules, including procurement, may be held personally accountable and financially liable for his or her actions. Based on its findings, the Tribunal held that the sanction imposed was proportionate to the gravity of the offence.

Decision Contested or Judgment/Order Appealed

The Applicant contested the Administration's decision to impose on him the disciplinary measure of dismissal from service in accordance with staff rule 10.2(a)(ix).

Legal Principle(s)

Pursuant to the jurisprudence of the Tribunal, the role of the UNDT in disciplinary cases is to perform a judicial review of the case and assess the following elements:

- i. Whether the facts were established by clear and convincing evidence;
- ii. Whether facts amount to misconduct;
- iii. Whether the staff member's due process rights were guaranteed during the entire proceeding; and
- iv. Whether the sanction is proportionate to the gravity of the offence.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Munywoki

Entity

UNMIS/UNMISS

Case Number(s)

UNDT/NBI/2023/030

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

31 Jul 2023

Duty Judge

Judge Wallace

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Aggravating/mitigating factors

Compensation

Applicable Law

Financial Regulations and Rules

- Rule 5.12

Staff Regulations

- Regulation 1.2(q)

Former Staff Rules

- Rule 10.2(a)(ix)

Related Judgments and Orders

2010-UNAT-084

2014-UNAT-415

2010-UNAT-018

2010-UNAT-024

2015-UNAT-523

2018-UNAT-890

2010-UNAT-098

2014-UNAT-403

2011-UNAT-164

2013-UNAT-302