

UNDT/2023/018, Berthaud

UNAT Held or UNDT Pronouncements

Considering that the Applicant opted for payment of the repatriation grant at the dependency rate, two options were open to her husband:

- a. To claim a repatriation grant at the single rate for the period of service subsequent to the Applicant's separation up to the date of his separation from service; or
- b. If eligible to a dependency rate, to claim that rate for the whole period of qualifying service, minus the amount of the grant paid to the Applicant.

The evidence on record shows that the Applicant's husband served three years after the Applicant's separation. For these three years of non-overlapping service, a single rate applies. From the table in Annex IV to the Staff Regulations, the Tribunal can deduce that the formula applicable to professional staff, for the determination of the number of weeks of gross salary in the calculation of a repatriation grant at the single rate, for "N" years of service below eight years is as follows: $(N + 3)$.

As such, for his three years of non-overlapping service, the Applicant's husband is entitled to six weeks of gross salary, less staff assessment. As per the calculation of WFP, the Applicant's husband received 16 weeks of gross salary less staff assessment, which amounted to USD33,606.46. It follows that he would have received USD12,602.42 $(33,606.46 \times 6/16)$ for his three years of service. The evidence on record shows that the Applicant would have been paid USD51,514.19 at the dependency rate.

Accordingly, under Operation A scenario, the Applicant and her husband would have been entitled to a total repatriation grant of USD64,116.61 $(USD12,602.42 + USD51,514.19)$.

Had the Applicant's husband claimed a repatriation grant at the dependency rate, he would have received 28 weeks of gross salary, less staff assessment, minus the amount of the grant that would have been paid to the Applicant at the dependency

rate (USD51,514.19).

Bearing in mind that to calculate the total repatriation grant one would have to add back USD51,514.19 (namely, the amount of the grant that would have been paid to the Applicant at the dependency rate), the total repatriation grant under Option B is equal to the Applicant's husband's repatriation grant at the dependency rate.

Accordingly, the Applicant's claim is more financially advantageous than that accorded to her under the contested administrative decision. Consequently, the Tribunal finds it appropriate to direct the Respondent to pay the Applicant the USD1,388 difference with interest calculated as from her husband's separation date.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision to pay her repatriation grant at the single rather than the dependency rate.

Legal Principle(s)

When both spouses are staff members and both entitled to the repatriation grant and there exist dependent children, the first spouse to separate from service is entitled to claim payment of the repatriation grant at the dependency rate (see Berthaud 2022-UNAT-1253, para. 25).

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Berthaud

Entity

UNDP

Case Number(s)

UNDT/GVA/2020/014/R1

Tribunal

UNDT

Registry

Geneva

Date of Judgement

23 Mar 2023

Duty Judge

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Repatriation grant

Benefits and entitlements

Applicable Law

Staff Regulations

- Regulation 9.4
- Annex IV

Staff Rules

- Rule 3.19(g)

Laws of other entities (rules, regulations etc.)

- The UNDP Repatriation Policy

Related Judgments and Orders

UNDT/2021/063

2022-UNAT-1253