

2022-UNAT-1212, Lillian Ular

UNAT Held or UNDT Pronouncements

UNAT agreed with the UNDT that the first two claims should be dismissed. The Appellant did not provide sufficient evidence showing that her candidacy was not given full and fair consideration. Regarding the generalized complaint of harassment, UNAT agreed that the application on this question was not receivable.

However, in regards to the finding that the Administration abused its authority in mishandling the Appellant's sexual harassment complaint, UNAT held that there was an error in procedure. The Appellant made a motion to admit additional evidence, and the UNDT made no ruling on this motion. The UNDT then went on to decide that there was no evidence supporting the claim for moral damages, when in fact such evidence was included in the motion.

Because the failure of the Dispute Tribunal to expressly rule on the motion was an error of procedure that affected the decision of the case as it related to the Appellant's claim for moral damages, UNAT remanded the issue of compensation for harm to the Dispute Tribunal. UNAT provided no opinion whether compensation should be granted but only remanded the matter to remedy the procedural error in order to ensure the UNDT considers the medical evidence in the motion in its determination on compensation for harm.

Decision Contested or Judgment/Order Appealed

A staff member made the following claims at the UNDT: (i) she had been the victim of harassment, unfair treatment, and abuse of authority; (ii) she was not selected for a position that she had applied for, and (iii) the Administration mishandled a complaint of sexual harassment that she had made four years prior.

The UNDT dismissed the claims of harassment and abuse of authority because they lacked clarity and did not point to specific administrative decision(s). Regarding the

non-selection claim, the UNDT found the Administration cannot be blamed for the Appellant's failure to take part in assessment when invited to do so.

However, regarding the claim of mishandling of the Appellant's sexual harassment complaint, the UNDT took note of the inordinate amount of time it took the Administration to respond to the Appellant and the lack of communication between the Organization and the Appellant that such action (or inaction) constituted an abuse of authority. The UNDT ordered the Administration to provide the Appellant with a clear explanation as to why her case was closed. The UNDT denied the Appellant's request for moral damages in the absence of supporting evidence.

Legal Principle(s)

When the UNDT has failed to rule on a motion seeking to admit additional evidence and then goes on to decide that a request for compensation for harm cannot be granted because of lack of supporting evidence, UNAT can remand the case back to the UNDT to rule on the pending motion so the UNDT can then properly decide whether there is sufficient evidence to grant the request for compensation for harm.

Outcome

Appeal granted in part

Outcome Extra Text

Appeal granted in part, and the issue of compensation for harm is remanded to the Dispute Tribunal for reconsideration.

Full judgment

[Full judgment](#)

Applicants/Appellants

Lillian Ular

Entity

UN Secretariat

Case Number(s)

2021-1528

Tribunal

UNAT

Registry

New York

Date of Judgement

3 May 2022

President Judge

Judge Raikos

Judge Murphy

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Access to justice

Investigation

Procedure (first instance and UNAT)

Case management

Delay

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

UNAT Statute

- Article 2.1(d)

Related Judgments and Orders

2011-UNAT-122

2014-UNAT-419

2015-UNAT-581

2017-UNAT-806