

2022-UNAT-1238, Carmelo Franco

UNAT Held or UNDT Pronouncements

The UNAT held that the UNDT erred with respect to the period for which the staff member was entitled to an SPA. The UNDT found that the requirements for an SPA had been met for the period 1 August 2015 to 31 January 2018, but due to the timing of his request in December 2018, he was entitled to payment only starting 21 December 2017. The UNAT agreed with the Secretary-General's argument that even this payment was in error, because the staff member's claim to the SPA was made several years after the entitlement to the initial payment came into play in August 2015. The UNAT held that the staff member's claim for an SPA was time-barred because he did not raise it within one year following the date on which he would have (allegedly) been entitled to the initial payment. The UNAT further rejected the staff member's claim to compensation for moral damage.

The Secretary-General's appeal was granted; Mr. Franco's appeal dismissed, and the UNDT Judgment reversed.

Decision Contested or Judgment/Order Appealed

In Judgment No. UNDT/2021/054, the UNDT granted the staff member's application and ordered the Administration to pay him a Special Post Allowance (SPA) for performing higher-level functions for a certain period.

The Secretary-General and the staff member each appealed.

Legal Principle(s)

In terms of retroactive payments, Staff Rule 3.17(ii) provides that a staff member who has not been receiving an allowance, grant or other payment to which he or she is entitled shall not receive retroactively such allowance, grant or payment unless the staff member has made a written claim within one year following the date on which the staff member would have been entitled to the initial payment.

Outcome

Appeal dismissed on merits; Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Carmelo Franco

Entity

UNGSC

Case Number(s)

2021-1578

Tribunal

UNAT

Registry

New York

Date of Judgement

12 Jul 2022

President Judge

Judge Raikos

Judge Murphy

Judge Halfeld

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Special Post Allowance

TEST -Rename- Benefits and entitlements-45

Applicable Law

Administrative Instructions

Staff Rules

- Rule 3.10
- Rule 3.17

Related Judgments and Orders

2017-UNAT-804

2021-UNAT-1101

UNDT/2021/054