

# UNDT/2022/062, Applicant

## UNAT Held or UNDT Pronouncements

In sum, considering the nature and gravity of the Applicant's misconduct, as well as the past practice of the Organization in matters of comparable misconduct, the Tribunal finds that the imposed disciplinary and administrative measures were adequate in light of the Administration's scope of discretion in this matter.

## Decision Contested or Judgment/Order Appealed

The Applicant contests the decision to impose on her a disciplinary sanction of separation from service, with compensation in lieu of notice, and with termination indemnity.

## Legal Principle(s)

The general standard of judicial review in disciplinary cases requires the Dispute Tribunal to ascertain: (a) whether the facts on which the disciplinary measure was based have been established; (b) whether the established facts legally amount to misconduct; and (c) whether the disciplinary measure applied was proportionate to the offence (see, for example, Abu Hamda 2010- UNAT-022, Haniya 2010-UNAT-024, Portillo Moya 2015-UNAT-523, Wishah 2015-UNAT537, Turkey 2019-UNAT-955, Ladu 2019-UNAT-956, Nyawa 2020-UNAT-1024). When termination is a possible outcome, misconduct must be established by clear and convincing evidence, which means that the truth of the facts asserted is highly probable (see, for instance, Molari 2011-UNAT-164, and Ibrahim 2017-UNAT-776).

## Outcome

Dismissed on merits

## Outcome Extra Text

In the present case, the action was deliberate and fraudulent, and the staff member concealed the misconduct. Thus, the Tribunal finds that the Administration acted within the bounds of its discretion in finding that the Applicant's misconduct was serious in nature. Her actions, submitting exam responses drafted by a third party to the Organization, falsely representing it was her own work, demonstrated a lack of integrity and disregard for the sanctity of the recruitment process. The Applicant's actions further violated the relationship of trust necessary for a continued employment relationship.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Applicant

## Entity

DFS

## Case Number(s)

UNDT/NY/2021/042

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

23 Jun 2022

## Duty Judge

Judge Adda

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary measure or sanction  
Disciplinary matters / misconduct

## Applicable Law

Staff Regulations

- Regulation 1.2(b)

Provisional Staff Regulations and Rules

- Rule 10.3(b)

## Related Judgments and Orders

2010-UNAT-022

2010-UNAT-024

2015-UNAT-523

2015-UNAT-537

2019-UNAT-955

2019-UNAT-956

2020-UNAT-1024

2011-UNAT-164

2017-UNAT-776

2018-UNAT-889

2014-UNAT-407  
2018-UNAT-859  
2021-UNAT-1184  
2017-UNAT-781