

2024-UNAT-1418, Paul Njoroge Ng'ang'a

UNAT Held or UNDT Pronouncements

The UNAT held that the UNDT acted within its discretion by issuing the impugned Judgment without holding an oral hearing, especially as the issue for consideration was one of receivability. The UNAT also held that the UNDT did not err in failing to give the staff member an opportunity to comment on the Secretary-General's reply as he did not file a motion for additional pleadings.

The UNAT found that the UNDT correctly identified that the contested decision was the Administration's decision not to reclassify his position.

The UNAT held that the staff member should have appealed the contested decision as laid down in Sections 5 and 6 of ST/AI/1998/9 (System for the classification of posts) and that by failing to do so, his application before the UNDT was not receivable because it was premature. As the staff member's application was not receivable, the UNAT held that it could not consider his submissions and additional evidence concerning the merits of the case.

The UNAT dismissed the appeal and affirmed Judgment No. UNDT/2023/013.

Decision Contested or Judgment/Order Appealed

The Appellant, a staff member of the United Nations Environment Programme (UNEP), contested the outcome of the 2010 reclassification process of his position of Team Assistant at the G-4 level.

In its Judgment No. UNDT/2023/013, the UNDT found that his application was premature and thus not receivable because he had not exhausted the remedy set out in ST/AI/1998/9 by submitting an appeal of the reclassification decision.

Staff member appealed.

Legal Principle(s)

It is not the role of the UNDT to assist the parties in their pleadings. Consequently, to be able to submit comments on the Secretary-General's reply, a staff member should file a motion for additional pleadings.

An oral hearing before the UNDT is not mandatory and the UNAT should not lightly interfere with the broad discretion of the UNDT in the management of cases.

The UNDT has the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review.

Where statutory provisions exist to provide internal remedies, it is proper that staff members should exhaust those remedies before appealing the contested decision before the UNDT.

The decision to appeal an administrative decision on reclassification is optional. However, should a staff member decide to exercise the right to appeal, the nature of such appeal must be as laid down in Section 6 of ST/AI/1998/9, which outlines a specific procedure for challenging a decision not to reclassify a post at a higher level. Indeed, the use of the words "shall" and "must", clearly expressed in Section 6 of ST/AI/1998/9, indicates

that this appeal procedure is mandatory.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Paul Njoroge Ng'ang'a

Entity

UNEP

Case Number(s)

2023-1793

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Apr 2024

President Judge

Judge Gao

Judge Forbang

Judge Sheha

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Classification (post)

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Procedure (first instance and UNAT)

Case management

Oral hearings

Applicable Law

Administrative Instructions

- ST/AI/1998/9

GA Resolutions

- A/RES/62/228

UNDT RoP

- Article 16
- Article 19

Related Judgments and Orders

UNDT/2023/013

2020-UNAT-981

2017-UNAT-765

