

2024-UNAT-1422, John Njuguna Bernard

UNAT Held or UNDT Pronouncements

The UNAT held that by requesting management evaluation of the negative outcome of the reclassification process, the staff member breached procedural prerequisites. Instead, he 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). As the staff member's application was not receivable, the UNAT found that it could not consider his submissions and additional evidence concerning the merits of the case. The UNAT denied the staff member's request for compensation in light of its decision to affirm the impugned Judgment on receivability.

The UNAT dismissed the appeal and affirmed Judgment No. UNDT/2023/014.

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 Computer Information Systems Assistant at the G-6 level.

In its Judgment No. UNDT/2023/014, 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)

Following the principle of plain interpretation, where there is no ambiguity, codified law is interpreted according to the letter of the law.

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. 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. A request for management evaluation is not an internal mechanism equivalent to the one provided in Sections 5 and 6 of ST/AI/1998/9, which outline a specific procedure for challenging a decision not to reclassify a post at a higher level.

Once the threshold issue of non-receivability is successfully raised and upheld, the substantive matter can no longer be entertained on the merits of the case.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

John Njuguna Bernard

Entity

UNEP

Case Number(s)

2023-1791

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Apr 2024

President Judge

Judge Forbang

Judge Gao

Judge Savage

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Classification (post)

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

- ST/AI/1998/9

GA Resolutions

- A/RES/62/228

UNAT Statute

- Article 2.5

Related Judgments and Orders

UNDT/2023/014

2015-UNAT-509

2011-UNAT-105

2021-UNAT-1142