

2024-UNAT-1433, Palash Kanti Das

UNAT Held or UNDT Pronouncements

The UNAT noted that the essence of the administrative decision had been that the staff member was not entitled to cashed-up unused annual leave from a second appointment taken up within 12 months of relinquishing a first appointment after which such leave had been commuted.

The UNAT observed that the staff member's request for management evaluation referred to the Administration's alleged "continued failure" to compensate him the commutation of annual leave. The UNAT found that the reference reinforced a conclusion that it had been the consistent decision conveyed to him over several months that was the subject of his complaint.

The UNAT held that the essential nature of the decision had been to require repayment and that the precise amount of the payment had not been the administrative decision but only an elemental detail of it. The UNAT found that while the staff member had also challenged the detail of how much he should have to repay should he be obliged in law to do so, this had been a detail of the fundamental decision that he should repay all commuted leave.

The UNAT held that even if, in responding to the staff member's correspondence, the Secretary-General had expanded upon the reasoning or even added further justifications for the decision, it was the decision and not the subsequently expressed discussion of its reasoning that had to be the subject of management evaluation. The UNAT concluded that the staff member had failed to seek management evaluation within the strict time limit.

The UNAT granted the appeal and reversed the UNDT's Judgment.

Decision Contested or Judgment/Order Appealed

A former staff member contested the decision to recover an overpayment of money for untaken annual leave.

In Judgment No. UNDT/2023/024, the UNDT concluded that the staff member's claims were receivable and that the Secretary-General was not entitled to recover the money because he had a legitimate expectation to the receipt of this money. The UNDT rescinded the contested decision.

The Secretary-General appealed.

Legal Principle(s)

Repetition of an administrative decision by the Secretary-General does not re-set the time limit for seeking management evaluation.

A communication that is subsequent to an administrative decision that contains expanded reasoning of that administrative decision is not a new administrative decision.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Palash Kanti Das

Entity

UN Women

Case Number(s)

2023-1815

Tribunal

UNAT

Registry

New York

Date of Judgement

6 May 2024

President Judge

Judge Colgan

Judge Ziadé

Judge Sheha

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Notification

Reasons

TEST -Rename- Benefits and entitlements-45

Annual leave

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Applicable Law

Staff Rules

- Rule 11.2
- Rule 11.2 (c)

UNDT Statute

- Article 2
- Article 8

Related Judgments and Orders

UNDT/2023/024

2014-UNAT-424