

UNDT/2024/077, Castelli

UNAT Held or UNDT Pronouncements

Regarding the decision to not convene a fact-finding panel, the Tribunal recalled its jurisprudence which indicates that a fact-finding investigation may only be undertaken if there are sufficient grounds to believe that a staff member had engaged in unsatisfactory conduct. In the instant case, the Tribunal, concluded that the Applicant had not provided sufficient grounds to support his claim.

In relation to the second contested decision, the Tribunal also referred to its settled jurisprudence which indicates that there is no right to FWA. The Tribunal, rather, observed that a denial of FWA or delay in its approval without a reasonable justification, could entail a fact of mere mismanagement and not a violation of a staff member's right. After a thorough review of the evidence, the Tribunal concluded that the Applicant did not substantiate at all his complaint and therefore, his application in relation to FWA failed.

In view of the foregoing, the Tribunal held that the application was not founded and decided to dismiss it in its entirety.

Decision Contested or Judgment/Order Appealed

The Applicant contested two decisions:

- a. The 9 June 2023 decision to not convene a fact-finding panel to investigate his complaint against his former first reporting officer ("FRO"); and
- b. The decision to close his 4 May 2023 complaint of unsatisfactory conduct against his FRO for having denied two requests for a FWA and delayed in approving others, which constituted abuse of authority and created a hostile work environment.

Legal Principle(s)

In this case, the Applicant contested two decisions. As such, there were two applicable legal principles, which based on the settled jurisprudence of the Tribunal, state that:

- a. In general, a staff member has no statutory right to an investigation, given that the Organization has discretion as to how to conduct a review and assessment of a complaint of a prohibited conduct. A fact-finding investigation may only be undertaken if there are sufficient grounds to believe that a staff member has engaged in unsatisfactory conduct.
- b. There is no right to flexible working arrangements ("FWA"). However, FWA requests by the staff members should be viewed favourably, where the exigencies of service allow.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Castelli

Entity

UNFIL

Case Number(s)
UNDT/NBI/2023/083
Tribunal
UNDT
Registry
Nairobi
Date of Judgement
14 Oct 2024
Duty Judge
Judge Buffa
Language of Judgment
English
Appeal Status
Appealed
Issuance Type
Judgment
Categories/Subcategories
Reasons
Administrative decision
Applicable Law
Administrative Instructions

- ST/AI/371

Secretary-General's bulletins

- ST/SGB/2019/3
- ST/SGB/2019/8
- ST/SGB/2017/1

Related Judgments and Orders

2023-UNAT-1342

2015-UNAT-505

2015-UNAT-518

2022-UNAT-1232