

UNDT/2024/079, Moroldo

UNAT Held or UNDT Pronouncements

The UNDT held that imposition of a sanction is not just a mechanical exercise, since the sanction should not be “more excessive than is necessary for obtaining the desired result.

A written censure would have been a suitably “meaningful consequence” and sufficient to impress upon the Applicant the error of his actions. The record indicates that he acknowledged that he should have sought authorisation before registering his company.

The Tribunal therefore finds that the sanction in this case was disproportionate to the misconduct by adding to the written censure an additional, unnecessary, arbitrary and excessive penalty of a two-year deferment of an increment to his salary

Decision Contested or Judgment/Order Appealed

Applicant challenges the Administration's decision to impose on him the disciplinary measure of written censure and deferment for two years of eligibility for salary increment, based on misconduct pursuant to Staff Rule 10.2(a)(i) and (iii)

Legal Principle(s)

In determining that the sanction was disproportionate to the offense, the Tribunal considered that there was allegation of misuse of IT resources involving downloading or viewing of pornographic material, no financial gain to the Applicant or financial loss to the Organization, and no degree of deceit on the part of the Applicant, and no aggravating factors.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Application is GRANTED in part: The Tribunal rescinds the decision to defer the Applicant's eligibility for salary increment by two years. In all other respects, the Respondent's decision is affirmed and the Applicant's prayers refused.

The Tribunal found that the sanction in this case was disproportionate to the misconduct by adding to the written censure an additional, unnecessary, arbitrary and excessive penalty of a two-year deferment of an increment to his salary.

Full judgment

[Full judgment](#)

Applicants/Appellants

Moroldo

Entity

UNTSO

Case Number(s)

UNDT/NBI/2023/056

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

11 Oct 2024

Duty Judge

Judge Wallace

Language of Judgment

English

Appeal Status

Appealed

Issuance Type

Judgment

Categories/Subcategories

Unauthorised outside activities and conflict of interest

Disciplinary matters / misconduct

Applicable Law

Administrative Instructions

- ST/AI/2017/1

UNDT Statute

- Article 9.4

Related Judgments and Orders

2019-UNAT-955

2013-UNAT-336

2013-UNAT-292

2013-UNAT-280

2018-UNAT-859

2010-UNAT-084

2020-UNAT-1024

2015-UNAT-550

2023-UNAT-1370

2015-UNAT-523

2015-UNAT-545