

Judgment No. 2022-



JUDGE DIMITRIOS RAIKOS, PRESIDING.

1. Mr. Alex Lucchini filed an application with the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) challenging the administrative decision to separate him from service following disciplinary proceedings, with compensation of notice and without termination indemnity. By Judgment No. UNDT/2020/090, the UNDT granted Mr. Lucchini's application in part, rescinding the

whatever reason, it may award compensation for harm (not compensation

Submissions

Mr. Lucchini's Application for Interpretation

58. Mr. Lucchini interprets the Judgment as having rejected the Secretary-General's appeal, including his challenge to the payment of moral damages, and as having made a limited finding on his cross-appeal increasing the amount of compensation from 10 to 24 months. However, the amount he was paid by the Organization corresponded to only 24 months net base pay plus interest. On inquiry, the Organization maintained that it was only required to pay 24 months net base pay plus interest.

59. Given the differing interpretations of UNAT's rulings by the parties, Mr. Lucchini asks that UNAT confirm that the UNDT's award for moral damages, based upon the claim supported by evidence of protracted emotional distress with medical complications, harm to and career expectations caused by the unwarranted disciplinary decision, remains unmodified.

The Secretary-General's Comments

60. Mr. Lucchini interprets the UNAT Judgment to indicate that UNAT confirmed the UNDT's award of compensation for moral damages, in addition to increasing the amount of compensation from 10 months to 24 months. However, the UNDT based its award of 10 months' net base salary as moral damages solely on Mr. Lucchini's loss of salary and on his medical expenses. UNAT clearly held that the UNDT erred by treating pecuniary harm (loss of salary and medical expenses during ALWOP) as a form of moral damages and indicated that an adequate award of compensation will compensate him for his other losses. UNAT thus increased the amount of compensation to address Mr. Lucchini's loss of salary and medical expenses. UNAT ordered payment of the increased amount of compensation (of two years' net base salary) but did not include the original award of compensation for moral harm that had been ordered in the UNDT Judgment. Such payment, had it been included, would have been redundant under UNAT's reasoning.

61. The Respondent requests that UNAT reject the application for interpretation in its entirety.

Considerations

62. In Judgment No. 2021-UNAT-1121, the Appeals Tribunal dismissed the Secretary-General's appeal and upheld Mr. Lucchini's cross-appeal in part. Consequently, the Appeals Tribunal modified the order of the UNDT in Judgment No. UNDT/2020/090 as follows:⁴

... The cross-appeal is upheld to the limited extent that the order of the UNDT is modified by an order rescinding the contested decision and setting an amount of compensation equivalent to two years' net base pay that the Secretary-General may elect to pay as an alternative to the rescission of the contested administrative decision. Interest will accrue on the total sum from the date of this Judgment at the current US Prime rate until payment. If the total sum is not paid within the 60-day period, an additional five per cent shall be added to the US Prime Rate until the date of payment.

(a)712. The parties disagree on whether the UNAT confirmed the UNDT's award of

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Judgment

63. Mr. Lucchini's application for interpretation is dismissed.

Original and Authoritative Version: English

Decision dated this 1st day of July 2022 in New York, United States.

Judge Raikos, Presiding

Judge Sandhu

Judge Halfeld

Published and entered into the Register on this 15th day of August 2022 in New York, United States.

Weicheng Lin, Registrar