



Judgment No. 2022-UNAT-1264



THE UNITED NATIONS A

7. On 19 September 2017, the Regional Director, as a managerial measure, removed AAC from the PNG Country Office. After a period of annual leave, AAC was placed on a supernumerary post in New York. On 24 February 2018, AAC was placed on administrative leave with full pay pending completion of an investigation into AAC's conduct.

(2 6 8.) pThe OIAI investigation included an (on- 7 . 0 -) s aAACCaAAC7was. 1 -) w ([

found that the allegations of sexual harassment had not been established. It also found t0.7 (s)-0.0.001 Tc 8

32. The definition of harassment in UNICEF's CF/EXD/2012-007 reads:

Harassment is any improper and unwelcome conduct that has or might reasonably be expected or be perceived to (e,aw 9.4C .4 (g)-5()-6.5 (has aim 0 Tw 12 2g)-5()-4.599.00.6 (o)26.9985 hUk5 Td-0.

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40. In the final analysis, there has not been proper fact-finding in relation to the key issues in this case. The Judgment in many parts appears to be founded upon impressions drawn from the OIAI investigation report and subjective opinions about AAC's character offered by persons who did not testify before the UNDT. It is accordingly not possible to clearly ascertain and test the factual basis of the UNDT's conclusion that harassment was established as highly probable. There simply has not been a fair trial of the issues.

41. A finding that a staff member is a harasser will have serious consequences. It likely will impact significantly on his or her life, status, financial security, and family life. AAC had an unblemished employment history with the Organization which spanned 35 years during which he admirably and successfully rose up the ranks. If his impressive career is to be terminated on the grounds that he is a harasser, the factual basis for that decision must be established

46. **Ad paragraph 48** – What evidence establishes the fact that AAC stared at the Deputy Representative in an intimidatory manner?
47. **Ad paragraph 52** – What precisely was “the manner and the tone” of the remark? What evidence is relied upon to prove the manner and tone of the remark? Of what precisely

56. **Ad paragraph 57** – In what respects is the colloquial expression “shoot from the hip” offensive?

57. **Ad paragraph 58** – Does the evidence confirm that AAC’s management style was “erratic, misogynistic, homophobic and prone to gossip behind people’s backs”? Set out fully the evidentiary basis for any such finding.

58. **Ad paragraph 59** – On what basis does the UNDT conclude that unproven, subjective comments of staff members, almost entirely of a hearsay nature, are of probative value credibly

65. **Ad paragraph 65** – What is the evidentiary basis for the UNDT's conclusion that rr

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