

Judgment No. 2021-UNAT-1147



Counsel for Ms. Malhotra: Monika Bileris

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JUDGE GRAEME COLGAN, ~~PO. 1. 5. 1. w aga - 6~~ - ns ~~1. 5. 1. w th - Tc 1. 5. 1. m - 4~~ BTJ ~~1. 5. 1. m - 4~~ Im. ~~1. 5. 1. m - 4~~

1 July 2019 and in which she did not retain her former role. Thereafter, her one-year supernumerary p.2 (ul)1sfo-4.[(p.2 (ul-0.7 (u)]TJ2 (ew)]TJ3 (ndm]TJ14.1]TJ14unfsfo-4.[un)]TJ2 (i)-3.

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15. The Respondent started the three-way telephone meeting on 25 May 2018 by asking Mr. DD about the nature of his MBA programme, his plans and his goals. When she sensed Mr. DD was evasive and insincere in his answers, she admittedly “lost [her] cool at that point” and “spoke sharply” to him.

16. In her rejoinder to the complaints of harassment and abuse of authority, the Respondent also responded to the complaints by the named complainants, but she stated that it was difficult for her to respond to the complaints from the anonymous staff members “without knowing their specific nature”.

17. On 24 May 2019, OIAI completed its investigation and submitted an investigation report to UNICEF’s Department of Human Resources (DHR) for appropriate action.

18. In a letter dated 14 June 2019, UNICEF charged the Respondent with misconduct with respect to her conduct towards Mr. AA at the 13 March 2018 and 12 April 2018 incidents and towards Mr. DD during the 25 May 2018 telephone meeting. In particular, this was said to have consisted of shouting at supervisees/colleagues whilst it was reasonable to assume that this would cause embarrassment and/or humiliation, particularly in view of the fact that others were able to hear and/or observe her conduct. The charge letter warned that the numerous reports from the complainants and witnesses suggested that, in order to address her overall management style, administrative action might be required, including but not limited to, a formal reprimand, reassignment

21. The Respondent nevertheless acknowledged that this process had brought to her attention “a number of problems in [her] management interactions with the staff” and that she “took many missteps”. She described the findings of the investigation report to be “sobering and humbling” and stated her surprise that her communications with colleagues were conveyed in ways that were “the opposite of what [she had] intended”. She accepted the fact that “there [was] also clearly a thread of a number of people with hurt feelings and diminished self-respect through their interactions with me ...” The Respondent committed to amending her behaviour and expressed her willingness to receive guidance and acquire new managerial skills to address those issues.

Dispute Tribunal also found that the Respondent had not established any ulterior motive underlying the contested decisions. But the Dispute Tribunal found that UNICEF had failed to demonstrate that she had shouted at Mr. ()-5.6 (B)-2..5 (th)-3.7 (a).2 (e)-9.()-5.6 m0.8 (i)-od a

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43. The UNDT found that the Respondent had established the three necessary

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represent only a small fraction of the loss of her valued and valuable service undertaking important child protection work at a high level in UNICEF.

49. Given the modest level of compensation awarded to her in all the circumstances and its non-payment, at least to the date of the Respondent's submissions, we allow the Respondent's claim to interest on this sum calculated at the US Prime Rate from 20 November 2020 to the date -4.3 (s)]TJO Tc 0 Tw 8.219 0 Tdrtd a at d -4.71 0 Th (n a)-5.3 (w)-llo

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50. The appeal is dismissed, and Judgment No. UNDT/2020/193 is upheld although varied to allow the Respondent interest on the compensation sum awarded.

Original and Authoritative Version: English

Dated this 29th day of October 2021.

(Signed)

Judge Colgan, Presiding
Auckland, New Zealand

(Signed)

Judge Murphy
Cape Town, South Africa

(Signed)

Judge Neven
Brussels, Belgium

Entered in the Register on this 17th day of November 2021 in New York, United States.

(Signed)

Weicheng Lin, Registrar