
UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2023-UNAT-1358

Jesus Suarez Liste
(Respondent/ Applicant)

v.

Secretary -General of the United Nations
(Appellant/Respondent)

JUDGMENT

| | |
|----------------------|---|
| Before: | Judge Kanwaldeep Sandhu, Presiding Judge Graeme Colgan Judge Martha Halfeld |
| Case No: | 2022-1739 |
| Date of Decision: | 30 June 2023 |
| Date of Publication: | 18 July 2023 |
| Registrar: | Juliet Johnson |

Counsel for Respondent/Applicant: Robbie Leighton, OSLA

Counsel for Appellant/ Respondent: Angélique Trouche

8.

27. Mr. Suarez Liste avers that given the arbitrary position taken by the Secretary-General, the UNDT was required to evaluate what value should be ascribed to a Ph.D. in a relevant subject matter. In determining that matter, the UNDT applied the principle of proportionality. (UNDT Judgment No. 2023-UNAT-1358)

to the NCRE programme (number of requisite years of experience and academic credentials)” which for P-3, step III is a Master’s degree with six years of relevant work experience. They do not specifically provide for the granting of additional steps for a Ph.D. degree.

35. In the Judgment, the Dispute Tribunal found that the study period for Mr . Suarez Liste’s Ph.D. degree should be counted as professional work experience. The

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44. In the MEU response of 26 July 2021, the Administration noted that the Grading Guidelines for language staff do not provide for the granting of additional steps for a Ph.D. and the highest degree it considers is the Master's degree.

45. In the Judgment, the Dispute Tribunal created a new factor and criterion in the application of the Grading Guidelines for language staff and exercise of the Administration's discretion, namely consideration of a Ph.D. in the step-in-grade calculation. By doing so, we find the Dispute Tribunal made a policy decision for the Administration which is solely within the purview of the Administration. As such, the Dispute Tribunal usurped the Administration's discretion and inappropriately substituted its own decision.

46. Consequently, we find that the Dispute Tribunal erred in fact and in law when it held that the Administration failed to consider relevant exceptional circumstances in determining Mr. Suarez Liste's step-in-grade pursuant to the Grading Guidelines for language staff. It thus erred by finding the contested decision was unlawful.

47. Therefore, we grant the appeal and reverse the Judgment. We uphold the decision to place Mr. Suarez Liste at P-3, step VI on initial appointment.

Judgment

48. The Secretary-General's appeal is granted and Judgment No. UNDT/2022/077 is hereby reversed.

Original and Authoritative Version: English

Decision dated this 30th day of June 2023 in New York, United States.

(Signed)

Judge Sandhu, Presiding

(Signed)

Judge Colgan

(Signed)

Judge Halfeld

Judgment published and entered into the Register on this 18th day of July 2023 in New York, United States.

(Signed)

Juliet Johnson, Registrar