
Judgment No. 2023-UNAT-1372



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Judge Gao Xiaoli, Presiding

Judge John Raymonn 0.51 235.2 jET84EMCe-Ju

Counsel for Appellant: Self-represented

Counsel for Respondent: Noam Wiener

¹ This unique three-letter substitute for the party's name is used to anonymize the Judgment and bears no resemblance to the party's real name or other identifying characteristics.

1. Before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal), AAM contested the Controller's decision of 30 December 2020 to deny him compensation under Appendix D of the Staff Regulations and Rules (Appendix D). By Judgment No. UNDT/2022/051, the UNDT found the application was without merit, but awarded AAM compensation for an unduly and inordinately protracted process when rendering the administrative decision (the impugned Judgment).
2. AAM has filed an appeal of the impugned Judgment with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal).
3. For the reasons set forth herein, the Appeals Tribunal dismisses AAM's appeal and affirms the impugned Judgment.
4. AAM joined the service of the United Nations Joint Staff Pension Fund (UNJSPF or Pension Fund) in 2006.
5. On 29 June 2018, AAM filed a claim for compensation under Appendix D for service-incurred mental injury and disability to the Advisory Board on Compensation Claims (ABCC).
6. After the Controller having twice remanded AAM's compensation claim back to the ABCC for a renewed review, on 30 December 2020, the Controller informed AAM that his claim for compensation was denied (Controller's decision or contested decision) following the recommendation of the ABCC, which had determined, based on advice received from the Division

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13. On 8 September 2021, AAM filed an application with the UNDT challenging the medical board decision.

14. On 25 May 2022, the UNDT issued Judgment No. UNDT/2022/051, dismissing AAM's application contesting the Controller's decision of 30 December 2020 to deny him compensation under Appendix D. The UNDT held that it had no authority to review the medical opinion of DHMOSH or its relevancy related to AAM's claim before the ABCC. Even if it had the competency

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of the scale amounting to two years' net base salary based on medical evidence provided for moral damages. AAM further asks that the UNAT refer this matter for possible action against the ABCC

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the Tribunals. AAM must, and did, follow the avenues of recourse made available to him in this regard.

54. However, we will judge in the present case whether the UNDT erred in finding the contested decision lawful. AAM argues that t

alleged ABCC ultra vires policy that requires claimants to prove harassment before a claim for compensation under Appendix D may be established, which is a misunderstanding on his part. AAM's participation in the Lovis company is part of his life which is relevant to his health and should be taken into consideration. We cannot evaluate the lawfulness of the administrative decision merely by the quantity and proportionality of documents in the dossier, from both parties, upon which the Administration based its decision. So, we agree with the UNDT's finding that in the contested decision, no "relevant matters" were ignored and/or no "irrelevant matters" considered, and it did not lead to an "absurd or perverse" decision.

57. Further, we reiterate the jurisprudence in Kennedy Kisia¹¹, that the burden of proving any allegations of ill-motivation rests with the applicant. AAM has failed to establish the alleged facts that the process under Appendix D was unlawful, biased or irrational.

58. The contested decision which accepted the ABCC's recommendation to deny the claimed benefit was lawfully made and in full respect of the due process rights prescribed by Appendix D.

59. Accordingly, the UNDT did not err in finding the contested decision was lawful.

Whether the UNAT should grant AAM the remedies he requested?

60. We recall: Firstly, following the jurisprudence of this Tribunal, moral damages may not be awarded without specific evidence supporting the award,¹² and testimonial evidence without corroboration by independent evidence is not satisfactory proof to support an award of moral damages,¹³ which means both the fact of damage and its quantum need evidential support. Secondly, the UNDT and UNAT are granted the discretion to order compensation normally not exceeding the equivalent of two years' net base salary of the applicant. In addition, the quantum of compensation claimed by the applicant shall be comparable to the damage suffered. Accordingly, it is the Appellant's burden to establish a fact by which the Tribunals could decide the amount of the compensation by reference.

61. Even though we do not find the contested decision unlawful

renewed assessment and each time, the remand occurred after AAM challenged the ABCC's finding that his compensation claim under Appendix D was not receivable by the Management Evaluation Unit and the UNDT. In light of the principle of e offl.2 (l)8ic2.2 (i)4.5.7 (of.6 (8)-17.6(8)-yJ0 Tc 0 Tw 1.15 (S8 Td

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