
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/023

Judgment No.: UNDT/2022/028

Date: 23 March 2022

Original 0.48

Introduction

1. On 1 June 2021, the Applicant, a staff member at the United Nations Secretariat in New York, filed an application to contest the Administration's decision that he is not entitled to payment for the lump-sum boarding allowance of USD5,000 he requested for his dependent child.

2. On 1 July 2021, the Respondent filed the reply stating that the application has no merit.

3. For the reasons set below, the application is rejected.

Facts

4. The Applicant, who has served at the United Nations Secretariat in New York since 2011, has been authorized to receive special education grant with respect to his dependent child since 2018.

5. The Applicant was on temporary assignment in a peacekeeping mission from 10 April 2019 through 30 April 2020. During his temporary assignment, his dependent child, who attended a public school, resided with the other parent at home in New York and he did not incur boarding expenses for his child.

6. On 22 September 2020, the Applicant submitted a form entitled "Special education grant and related benefits claim for payment and/or request for advance" topw2A3 (orāTdTw (

13. In this case, the Administration initially decided that the Applicant was eligible for a prorated amount of lump-sum boarding allowance, but during the management evaluation process, the Administration found the previous decision erroneous and decided that the Applicant was in fact not entitled to any boarding allowance.

14. Therefore, the decision subject to judicial review in this case is the Administration's decision to find him ineligible for any boarding allowance.

Applicable legal framework

15. Staff regulation 3.2 establishes education grant and special education grant entitlements for eligible staff members.

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peacekeeping mission, even though his child was not boarding to attend school and thereby did not incur any expenses for boarding.

25. The Applicant argues that he is entitled to boarding allowance under these circumstances. His arguments are two-fold. First, he argues that while he receives special education grant with respect to his child, there is nothing in the regulatory framework that disqualifies him from receiving boarding allowance under the regular education grant scheme (ST/AI/2018/1/Rev.1). Second, he argues that he meets all eligibility criteria for boarding allowance as set out in sec. 2.5 of ST/AI/2018/1/Rev.1 since there is no requirement that a child must be boarding to be eligible for boarding allowance.

26. The Tribunal recalls that, as the Appeals Tribunal held in *Ozturk2018-UNAT-892*, para. 30, “[t]he interpretation of a rule is made within the context of the hierarchy in which the rule appears”. The Appeals Tribunal stated that “[i]n general terms, administrative issuances set out instructions and procedures for the implementation of the Staff Regulations and Rules. Just as a Staff Rule may not conflict with the Staff Regulation under which it is made, an administrative issuance may not conflict with the ap7mleou -2 (c)4egnR2018ty notssu3 -2.72 Td(26)trhchy

expenses shall be included in the calculation of the admissible expenses” (emphasis added).

30. Therefore, it is clear that und

