



UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D 'APPEL DES NATIONS UNIES

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Portillo Moya

(Respondent/Applicant)

v.

Secretary-General of the United Nations

(Appellant/Respondent)

JUDGMENT

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JUDGE LUIS MARÍA SIMÓN , PRESIDING .

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UNEP/WHO

*Portillo Moya v. Secretary-General of the United Nations.*

2011/1

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Facts and Procedure

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Submissions

The Secretary-General's Appeal

12. The Dispute Tribunal erred in law in concluding that the imposed disciplinary sanction was disproportionate to Ms. Portillo Moya's serious misconduct and thereby substituting it with a lesser sanction of separation from service with compensation in lieu of notice with termination indemnity. The Administration has broad discretion in disciplinary matters and, absent obvious absurdity, proven abuse or arbitrariness, its discretion should not be disturbed. Noting that the Dispute Tribunal agreed that the evidence against Ms. Portillo Moya established serious misconduct and that the sanction of separation was justified, the Dispute Tribunal should not substitute its own judgment among the various options available to the Secretary-General such as separation with or without notice and with or without termination indemnity. The Administration's decision to separate with compensation in lieu of notice and without termination indemnity was not the most serious sanction available and was reasonable in light of Ms. Portillo Moya's wrongful actions over the years. It was also comparable to other disciplinary decisions.

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Ms. Portillo Moya's Answer

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Considerations

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<sup>1</sup> See *Kamara v. Secretary-General of the United Nations*, [1994] UNCTD 100; *Haniya v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, [1994] UNCTD 101.

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