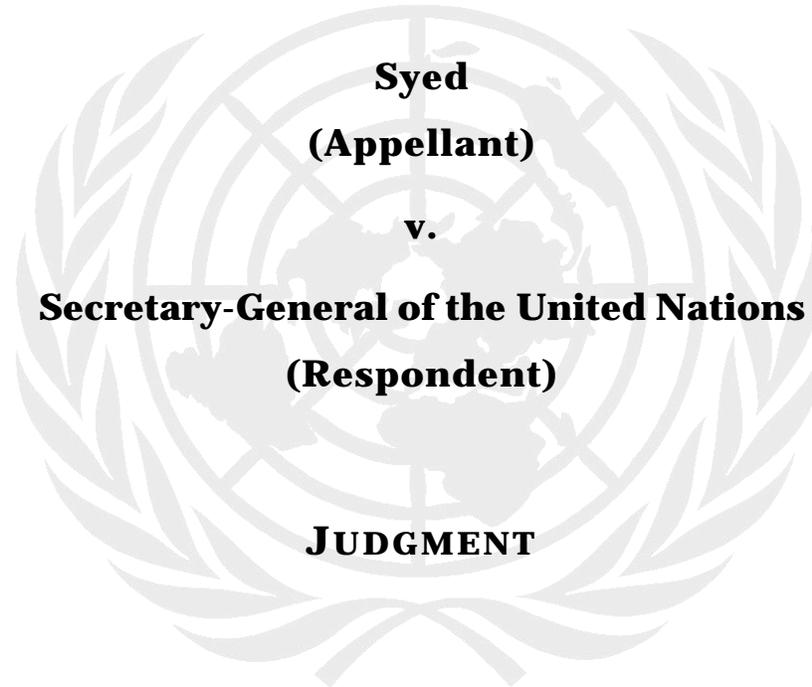




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Case No. 2010-067



**Syed
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

Before:	Judge Mark P. Painter, Presiding Judge Sophia Adinyira Judge Luis María Simón
Judgment No.:	2010-UNAT-061
Date:	1 July 2010
Registrar:	Weicheng Lin

Counsel for Appellant: Self-represented

Counsel for Respondent: Cristián Gimenez Corte

JUDGE MARK P. PAINTER, Presiding.

Synopsis

1. A fixed-term appointment has no expectancy of renewal or of conversion to any other type of appointment. The United Nations Dispute Tribunal (UNDT or Dispute Tribunal) found that there were no circumstances that removed this case from the general rule, and we affirm the UNDT decision in all respects.

Facts and Procedure

2. Between 2002 and October 2007, Azhar Ali Syed (Syed) worked for the Office for the Coordination of Humanitarian Affairs (OCHA) in different positions and under different contractual arrangements, in Pakistan, Afghanistan, and Sudan. Effective 30 October 2007, Syed accepted a fixed-term appointment for six months under the 100-series Staff Rules as Associate Finance Officer (P-2) in the Administrative Office of OCHA in Geneva. His appointment was later extended for two months until 30 June 2008. On 29 May 2008, Syed was informed that his appointment would not be renewed beyond 30 June 2008. On 20 June 2008, a human resources officer of the Human Resources Management Services, United Nations Office in Geneva, advised Syed of the separation procedure including various administrative forms that he need to complete prior to departure.

3. On 27 June 2008, Syed requested administrative review of the decision not to renew his contract. On 30 June 2008, he separated from service with the United Nations. Syed appealed to the Joint Appeals Board (JAB) on 13 October 2008. On 1 July 2009, his appeal was transferred to the UNDT.

4. In its Judgment issued on 22 December 2009, the UNDT dismissed Syed's appeal. It noted that Syed held a fixed-term appointment, which carried no expectancy of renewal or conversion to any other type of appointment; and that the Administration had not given Syed the impression that his appointment would be further extended. The UNDT further found that Syed did not demonstrate that the grounds for his non-renewal were unlawful. He did not rebut the Administration's contention that the appointment was not renewed for lack of funding. Syed claimed that the Administration desired to

remove him because he had obtained information as part of his work that could reveal cases of misconduct. But the UNDT found that, on the contrary, despite his allegations of misconduct, the Administration renewed his contract until June 2008.

5. Syed filed a complete appeal against the Judgment on 9 March 2010. The Secretary-General filed an answer to the appeal on 10 May 2010.

Submissions

Syed's Appeal

6. In his appeal, Syed requests reinstatement. He also requests the payment of various entitlements.

7. With respect to his separation from the Organization, Syed submits that the letter regarding his separation dated 20 June 2008 (1) did not fulfil the one-month notice requirement and (2) was sent by a person who lacked authorization—and that consequently, the separation from service was not effective. He requests payment of his salary from July 2008 to December 2009; as well as his reinstatement for a minimal period of two years, in accordance with the staff rotation policy promulgated by the Office of the Under-Secretary-General, OCHA.

8. Syed alleges that both the Chief, OCHA Sudan, and the Head of Operations had assured him of continued service with OCHA Sudan. This, he states, should be viewed in the context of the continued service of 15 former colleagues from OCHA Sudan, who had moved to New York or Geneva, and continue to work with OCHA today.

9. Syed contends that, before accepting the six-month appointment with OCHA in Geneva, he had detailed discussions with the Chief, OCHA Human Resources, and that had he known that his Geneva appointment would cause his separation from the Organization, he would have continued serving in Sudan.

Secretary-General's Answer

10. The Secretary-General contends that Syed has not explained the legal basis of his appeal and fails to identify any of the five grounds of appeal required by Article 8(2)(a) of the Appeals Tribunal's Rules of Procedure. He has merely reiterated the arguments

considered by the UNDT. The Secretary-General contends that Syed has not identified any error that would require the reversal of the conclusions reached and the decision taken by the UNDT.

11. The Secretary-General emphasizes that Syed does not contest the UNDT's determination that OCHA's decision not to renew his appointment was proper. Instead, he appeals the "UNDT decision dated 22 December 2009 for consideration on vacant position ref FO-GVA-OCHA-417377 Finance Officer P-3 OCHA Geneva" and requests payment of various entitlements. The claims raised by Syed were initially raised before the UNDT. The UNDT declined to review them on the grounds that they had not been included in his request for administrative review. The Secretary-General contends that under Article 8(1) of the UNDT's rules of procedure, a staff member is required to submit a contested decision for management evaluation before it is receivable. Further, Section 1.4 of ST/SGB/2009/11 entitled "Transitional Measures Related to the Introduction of the New System of Administration of Justice" provides that staff members who request an administrative review before 1 July 2009 are deemed to have satisfied the requirement for requesting a management evaluation. Because Syed has neither filed a request for administrative review of the claims dismissed by the UNDT nor a request for management evaluation, the Secretary-General contends that the UNDT has correctly declined to consider Syed's additional claims.

12. The Secretary-General requests that the Appeals Tribunal dismiss the appeal in its entirety.

Considerations

13. There is no dispute that Syed had a fixed-term appointment, which had no expectancy of renewal or of conversion to any other type of appointment. Though Syed made many allegations, the UNDT found that there were no circumstances that would take Syed's situation out of the general rule. And because most of Syed's points were raised neither in a request for administrative review nor a request for management evaluation, UNDT correctly dismissed them. Syed has not presented anything that shows that the UNDT erred in any respect.

Judgment

14. We affirm the UNDT's Judgment in all respects.

Dated this 1st day of July 2010 in New York, United States.

Original: English

(Signed)

Judge Painter, Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Simón

Entered in the Register on this 16th day of August 2010 in New York, United States.

(Signed)

Weicheng Lin, Registrar
United Nations Appeals Tribunal