



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

Judgment No. 2013-UNAT-351

**Ghahremani
(Applicant)**

v.

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

JUDGMENT ON APPLICATION FOR REVISION

Before: Judge Luis María Simón, Presiding
Judge Sophia Adinyira
Judge Rosalyn Chapman

Case No.: 2012-322

Date: 21 June 2013

Registrar: Weicheng Lin

Counsel for Applicant: Winston Sims

Counsel for Respondent: Wambui Mwangi

1. The United Nations Appeals Tribunal (Appeals Tribunal) has received an application for revision of Judgment No. 2011-UNAT-171, *Ghahremani v. Secretary-General of the United Nations*, dated 21 October 2011 and published on 2 December 2011. Mr. Mohsen Ghahremani filed his application for revision on 10 May 2012, and the Secretary-General responded on 10 August 2012.

Facts and Procedure

2. Mr. Ghahremani worked on successive fixed-term appointments at the United Nations Office in Vienna (UNOV) from 12 October 1983 until 31 December 1996, following which he held various short-term appointments at UNOV, the last ending on 26 February 1999. On 27 October 1999, UNOV barred Mr. Ghahremani, who was working for the United Nations Industrial Development Organization under a six-month special services agreement (SSA), from entering its premises. This bar was lifted effective 7 August 2000.

3. On 6 August 2006, counsel for Mr. Ghahremani requested a copy of his client's official status file (OSF) and all documents related to Mr. Ghahremani from January 1995 onwards; this request was refused by UNOV in view of the time that had lapsed since Mr. Ghahremani had last been a staff member. Mr. Ghahremani subsequently unsuccessfully appealed to the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) both the decision to bar him from UNOV and the decision to deny his counsel access to his OSF and related documents. He then appealed the Dispute Tribunal's Judgments (Judgments No. UNDT/2010/075 and No. UNDT/2010/076) to the Appeals Tribunal.

4. On 21 October 2011, the Appeals Tribunal issued Judgment No. 2011-UNAT-171, in which it affirmed the impugned Dispute Tribunal Judgments. In its Judgment, the Appeals Tribunal concluded that Mr. Ghahremani, as the holder of an SSA, was no longer subject to the Staff Regulations and Rules at the time he was barred from entering UNOV. Thus, a decision to prevent him from consulting files relating to his barring could not have adversely affected his terms of appointment as a former staff member. Accordingly, this Tribunal found that the Dispute Tribunal correctly rejected Mr. Ghahremani's application as non-receivable, *ratione personae*.

Submissions

Mr. Ghahremani's Application

5. Mr. Ghahremani submits that he was unaware of the fact that almost all decisive facts, arguments, and key evidence had apparently not come to the attention of the Appeals Tribunal.

6. Mr. Ghahremani further submits that it is a mathematical impossibility that “three professional, independent judges” had failed to mention or address his arguments and factual conclusions. Thus, Mr. Ghahremani concludes that the only possible explanation is that this Tribunal was never presented with those “decisive facts and arguments”.

The Secretary-General's Answer

7. The Secretary-General submits that because Mr. Ghahremani exceeded the applicable time-limit under Article 11(1) of the Statute of the Appeals Tribunal to apply for revision of judgment, he is now time-barred.

8. The Secretary-General further submits that the Appeals Tribunal considered the facts underlying the two UNDT judgments as appealed by Mr. Ghahremani. Specifically, he notes that the Appeals Tribunal considered Mr. Ghahremani's contractual history and all key aspects of his submissions.

Considerations

9. The Appeals Tribunal readily dismisses Mr. Ghahremani's request. Applications for revision of judgment are governed by Article 11(1) of the Statute and Article 24 of the Rules of Procedure of the Appeals Tribunal. By these provisions, an applicant must show or identify the decisive facts that, at the time of the Appeals Tribunal's judgment, were unknown to both the Appeals Tribunal and the party applying for revision; that such ignorance was not due to the negligence of the applicant; and that the facts identified would have been decisive in reaching the decision.¹

¹ *Macharia v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-128, para 7.

10. As this Tribunal stated in *Shanks* and *Costa*, “the authority of a final Judgment – *res judicata* – cannot be so readily set aside. There are only limited grounds, as enumerated in Article 11 of the Statute of the Appeals Tribunal, for review of a final judgment.”²

11. This Court also held in *Beaudry* that “any application which, in fact, seeks a review of a final judgment rendered by the Appeals Tribunal can, irrespective of its title, only succeed if it fulfills the strict and exceptional criteria established by Article 11 of the Statute”.³

12. The request filed by Mr. Ghahremani constitutes, in fact, a disguised way to criticize the Judgment or to expose grounds to disagree with it, following a style of cross-references to other documents that makes it mostly incomprehensible and certainly indirectly violates the page limitation for such an application.

13. There is no reason Mr. Ghahremani could not have filed his petition for revision within 30 calendar days of the discovery of the facts as provided for in Article 11(1) of the Statute, since he knew the Judgment when his counsel was notified with a full copy on 2 December 2011.

14. Thus, the petition submitted more than four months late is time-barred.

Judgment

15. The application for revision is dismissed.

² *Shanks v. United Nations Joint Staff Pension Board*, Judgment No. 2010-UNAT-026bis, para. 4; *Costa v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-063, para. 4 (citing *Shanks, ibid.*).

³ *Beaudry v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-129, para. 16.

Original and Authoritative Version: English

Done in New York, United States.

(Signed)

Judge Simón, Presiding

28 June 2013

(Signed)

Judge Adinyira

21 June 2013

(Signed)

Judge Chapman

28 June 2013

Entered in the Register on this 26th day of August 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar