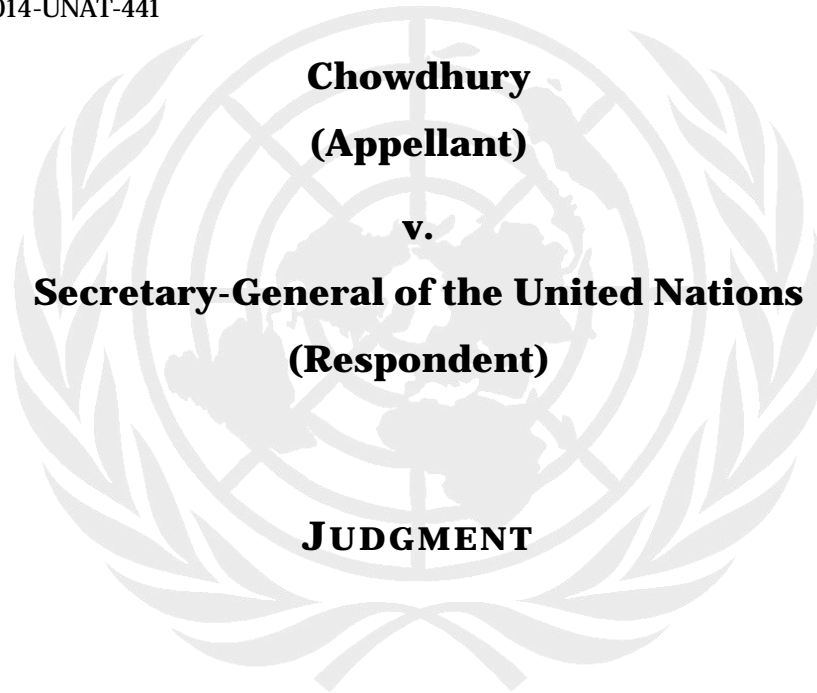




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2014-UNAT-441



Before: Judge Rosalyn Chapman, Presiding
Judge Mary Faherty
Judge Luis María Simón

Case No.: 2013-505

Date: 27 June 2014

Registrar: Weicheng Lin

Counsel for Appellant: Miles Hastie

Counsel for Respondent: Rupa Mitra

JUDGE ROSALYN CHAPMAN, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNDT/2013/073, issued by the United Nations Dispute Tribunal (UNDT) in Nairobi on 30 April 2013 in *Chowdhury v. Secretary-General of the United Nations*.

Facts and Procedure

2. Mr. Mahmud-ush-shams Chowdhury entered the service of the United Nations in 1993 as a Finance Officer with the United Nations Development Programme in Dhaka, Bangladesh. He joined the Department of Peacekeeping Operations in 2001 and served in the United Nations Office of the Humanitarian Coordinator for Iraq and the United Nations Mission in Liberia. He began service with the International Criminal Tribunal for Rwanda on 1 April 2005, and in 2012 he was at the P-4 level.

3. Pursuant to ST/SGB/2009/10, Mr. Chowdhury was found to be eligible for conversion to a permanent appointment; however, on 2 November 2011, he was notified that the Assistant Secretary-General of the Office of Human Resources Management had determined he was not suitable for conversion.

4. Mr. Chowdhury sought management evaluation of the decision not to grant him a permanent appointment, and by letter dated 9 February 2012, he was informed that the Secretary-General upheld the decision.

5. On 4 May 2012, Mr. Chowdhury filed an application with the UNDT challenging the decision not to convert his fixed-term appointment to a permanent appointment. On 7 June 2012, the Secretary-General filed his reply.

6. On 30 April 2013, the UNDT issued Judgment No. UNDT/2013/073 dismissing Mr. Chowdhury's application. The UNDT concluded *inter alia* that the procedures under ST/SGB/2009/10 were correctly applied as to him.

7. On 1 July 2013, Mr. Chowdhury appealed the Judgment and on 27 August 2013, the Secretary-General filed his answer.

Considerations

8. On 5 May 2014, the President of the Appeals Tribunal assigned Mr. Chowdhury's appeal to a panel of the Appeals Tribunal for consideration and judgment.
9. On 29 May 2014, after reviewing the record and consulting amongst themselves, the Appeals Tribunal issued Order No. 185 (2014), which directed the parties to file, within seven calendar days, concurrent legal memoranda addressing whether *Malmström et al.*, *Longone*, *Ademagic et al.*, and *McIlwraith*¹ apply to the issues on appeal. Additionally, in Order No. 185 (2014), the Appeals Tribunal granted Mr. Chowdhury's request for an oral hearing.
10. On 30 May 2014, the Secretary-General filed a motion seeking an extension of time to file his legal memorandum. On 3 June 2014, the Appeals Tribunal issued Order No. 186 (2014), which granted the Secretary-General's request for an extension of time to file his legal memorandum and extended the deadline for both parties to file their legal memoranda.
11. On 6 June 2014, Mr. Chowdhury filed a "Notice of Withdrawal" "[p]ursuant to the terms and conditions of a settlement agreement".
12. On 18 June 2014, the Appeals Tribunal issued Order No. 188 (2014), which vacated Orders Nos. 185 (2014) and 186 (2014), in light of the Notice of Withdrawal.
13. Our jurisprudence provides that "a party may withdraw an appeal simply by giving notice and need not necessarily provide any further justification".² Accordingly, the Appellant's withdrawal of the appeal is noted and the Registrar should close the case.³

Judgment

14. The Registrar is directed to close the case.

¹ *Malmström et al. v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-357; *Longone v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-358; *Ademagic et al. v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-359; *McIlwraith v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-360.

² *Hunt-Matthes v. Secretary-General of the United Nations*, Order No. 167 (2014) (citing *Amar v. Secretary-General of the United Nations*, Order No. 73 (2011) and *Fayek v. Secretary-General of the United Nations*, Order No. 34 (2011)).

³ Cf. *Oummih v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-413.

Original and Authoritative Version: English

Dated this 27th day of June 2014 in Vienna, Austria.

(Signed)

Judge Chapman, Presiding

(Signed)

Judge Faherty

(Signed)

Judge Simón

Entered in the Register on 29th day of August 2014 in New York, United States.

(Signed)

Weicheng Lin, Registrar