



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

Judgment No. 2023-UNAT-1380

**Said Hassan Awad
(Respondent/Applicant)**

v.

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

JUDGMENT

ON APPLICATION FOR INTERPRETATION AND CORRECTION

Before:	Judge Katharine Mary Savage, Presiding Judge Graeme Colgan Judge Gao Xiaoli
Case No.:	2022-1769
Date of Decision:	27 October 2023
Date of Publication:	9 November 2023
Registrar:	Juliet E. Johnson

Counsel for Mr. Awad: Not represented

Counsel for the Secretary-General: Amanda Stoltz

JUDGE KATHARINE MARY SAVAGE, PRESIDING.

1. The United Nations Dispute Tribunal (UNDT) and the United Nations Appeals Tribunal (Appeals Tribunal or UNAT) examined whether certain fees for the attendance of Mr. Awad's child at a university were admissible for computing his education grant. In Judgment No. 2022-UNAT-1279 (prior Judgment)¹, the Appeals Tribunal granted in part the appeal of the Secretary-General of the United Nations and modified the impugned UNDT Judgment² so as to grant in part and dismiss in part Mr. Awad's application.
2. The Secretary-General filed an application for interpretation and correction of the prior Judgment, concerning the amount payable to Mr. Awad.
3. For the reasons set out below, the Appeals Tribunal dismisses the Secretary-General's application.

Facts and Procedure³

4. At the relevant time, Mr. Awad served as Chief of the Transport Unit, Sourcing Support Service, Logistics Division, Department of Operational Support, United Nations Secretariat in New York, holding a continuous appointment.⁴ His son was a full-time undergraduate student at a public university in the United States.
5. Mr. Awad paid USD 16,108.15 in total for tuition and various fees towards his son's university education for the 2019-2020 academic year.⁵ This included a "campus fee" of USD 2,694.00, a "school fee" of USD 141.30, a "computer fee" of USD 342.40, and a "new student fee" of USD 275.60.
6. He requested payment of an advance under Section 7 of Administrative Instruction ST/AI/2018/1/Rev.1 (Education grant and related benefits).⁶ This request was approved and Mr. Awad received payment of an advance in the amount of USD 17,699.48. On 24 August 2020, the Headquarters Clients Support Service (HQCSS), Division of Administration, Department of

¹ *Said Hassan Awad v. Secretary-General of the United Nations*, Judgment issued on 29 November 2022.

² *Awad v. Secretary-General of the United Nations*, Judgment No. UNDT/2021/108.

³ Summarized from the prior Judgment as relevant to the application.

⁴ *Ibid.*, para. 3.

⁵ *Ibid.*, para. 4.

⁶ *Ibid.*

Operational Support, informed Mr. Awad that he was entitled to USD 10,607.80 in respect of the education grant, which did not include payment of the campus fee, school fee, computer fee and a new student fee. As a result, he was advised that USD 7,091.68 of the amount advanced was to be recovered from him.

7. On 14 September 2020, Mr. Awad requested management evaluation.⁷ On 25 September 2020, HQCSS informed Mr. Awad that, after contacting the university, it had modified its decision.⁸ Accordingly, he was reimbursed that portion of the “campus fee” that qualified as a “capital assessment fee” (USD 115.00 per semester) in accordance with Section 2.2 of ST/AI/2018/1/Rev.1. On 27 October 2020, the Management Evaluation Unit (MEU) upheld the HQCSS’s decision.⁹

8. On 11 January 2021, Mr. Awad filed an application with the UNDT, in which he contested the HQCSS’s decision.¹⁰

9. On 20 September 2021, the UNDT rendered Judgment No. UNDT/2021/108.¹¹ The UNDT found that since “the campus fee” (apart from the “capital assessment fee” component), “the school fee”, “the computer fee” and “the new school fee” were required for the enrollment of Mr. Awad’s son at the university, the decision to declare these fees inadmissible for the purpose of the education grant under Section 3.1(a) of ST/AI/2018/1/Rev.1 was unlawful. The UNDT granted Mr. Awad’s application, finding all the above fees admissible for the purpose of the education grant for the academic year 2019-2020, and ordered the Administration to recalculate and pay to Mr. Awad the additional education grant entitlements due to him.

10. The Secretary-General appealed the decision and sought that the Appeals Tribunal vacate the UNDT Judgment, uphold the contested decision, and dismiss Mr. Awad’s application in its entirety.¹²

⁷ *Ibid.*, para. 6.

⁸ *Ibid.*, para. 7.

⁹ *Ibid.*, para. 8.

¹⁰ *Ibid.*, para. 9.

¹¹ *Ibid.*, para. 10.

¹² *Ibid.*, paras. 11 and 13.

The prior Judgment of the Appeals Tribunal

11. On 29 November 2022, the Appeals Tribunal rendered its prior Judgment. It granted the Secretary-General's appeal in part and modified Judgment No. UNDT/2021/108. The Appeals Tribunal ordered the Secretary-General to accept the "computer fee" and the "new student fee" as admissible expenses under Section 3.1 of ST/AI/2018/Rev. 1, and reduce the amount recovered from Mr. Awad by USD 618.00.¹³ The result was that the Secretary-General was not entitled to recover USD 7,091.68 from Mr. Awad, but only USD 6,473.68 (USD 7,091.68 less USD 618.00).¹⁴ Mr. Awad's application was dismissed in all other respects.

12. The Appeals Tribunal found that since Section 3.1(a) of ST/AI/2018/1/Rev.1 only referred to "enrolment" and not "continued enrolment", the General Assembly intended in resolution 70/244, para. 27, to reduce admissible expenses for education to "enrolment-related", "tuition" and "assistance with boarding expenses".¹⁵ Sections 3.1(a) and (b) of ST/AI/2018/1/Rev.1 enumerate "enrolment-related fees" and "tuition" as admissible expenses, with specific examples of either enrolment fees or tuition set out in Section 3.1(c) to (g) of ST/AI/2018/Rev.1. Since the Appeals Tribunal has recently accepted technology fees as part of tuition expenses under Section 3.1(b) of ST/AI/2018/1/Rev.1,¹⁶ the "computer fee" was found to be admissible as a tuition expense. The "new student fee" was accepted as an admissible expense as it was designed to finance orientation and transition programs, with orientation fees specifically mentioned in Section 3.1(a) of ST/AI/2018/Rev.1. However, the "campus fee" and "school fee" were found to fall outside of the provision.¹⁷

Procedure before the Appeals Tribunal

13. On 22 December 2022, the Secretary-General filed an application for interpretation and correction of the prior Appeals Tribunal Judgment, to which Mr. Awad did not file any comments.

¹³ *Ibid.*, paras. 47–48.

¹⁴ *Ibid.*, para. 46.

¹⁵ *Ibid.*, para. 39.

¹⁶ *Peter Deupmann v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1221, para. 66.

¹⁷ Prior Judgment, paras. 41–42.

Submissions

Secretary-General's Application

14. The Secretary-General asks the Appeals Tribunal to provide guidance in the form of an interpretation of the amount payable to Mr. Awad and, if appropriate, issue a correction to the prior Judgment.

15. The Secretary-General contends that ST/AI/2018/1/Rev.1, which implements Staff Regulation 3.2, Staff Rule 3.9 and Appendix B to the Staff Rules (applicable legal framework)¹⁸, provides that admissible expenses (both tuition and mandatory enrolment-related fees) are reimbursed on a “sliding scale,” subject to a maximum grant as approved by the General Assembly. Accordingly, were the Administration to reimburse the admissible expenses under ST/AI/2018/1/Rev.1, Mr. Awad would not be entitled to USD 618.00, but to a lesser amount, calculated by applying the methodology set out in the applicable legal framework. Consequently, the Secretary-General submits that guidance is needed on whether to reimburse Mr. Awad USD 618.00 or an admissible amount in respect of expenses calculated in accordance with the applicable legal framework and the methodology set out in it.

16. The Secretary-General submits further that should the Appeals Tribunal intend for the Administration to reimburse Mr. Awad's admissible expenses on the sliding scale provided for in ST/AI/2018/1/Rev.1, a correction to the Judgment would be appropriate.

Considerations

17. Article 10(6) of the UNAT Statute provides that the judgments of the Appeals Tribunal shall be final and without appeal. An order of this Tribunal is therefore decisive of a matter,¹⁹ unless it contains an error which, under Article 11(2), “may at any time be corrected by the Appeals Tribunal, either on its own motion or on the application of any of the parties”.

18. Article 11(3) of the UNAT Statute entitles either party to apply to the Appeals Tribunal for an interpretation of the meaning or scope of the judgement. Either party may apply under Article 25 of the UNAT Rules of Procedure to the Appeals Tribunal for such an interpretation, with

¹⁸ Secretary-General's bulletin ST/SGB/2018/1 (Staff Regulations and Rules).

¹⁹ *Clemente v. United Nations Joint Staff Pension Board*, Judgment No. 2020-UNAT-997, paras. 10–11.

it for the Tribunal to “decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation”.

19. An application in terms of Article 11(3) for interpretation of a prior Judgment of this Tribunal may only be admitted “if the meaning or scope” of the Judgment “is unclear or ambiguous”.²⁰ In *Abbasi*²¹ it was stated that:

(...) interpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubts about the will of the Tribunal or the arguments leading to a decision. But if the judgment is comprehensible, whatever the opinion the parties may have about it or its reasoning, an application for interpretation is not admissible, as it happens in the present case.

20. The prior Judgment of the Appeals Tribunal determined whether certain fees for the attendance of Mr. Awad’s child at a university were admissible for computing his education grant on an interpretation of the applicable Staff Regulations and Rules, finding that the amount of USD 6,473.68 (USD 7,091.68 minus USD 618.00) was recoverable from Mr. Awad, with the Secretary-General ordered “to reduce the amount recovered from Mr. Awad by USD 618.00”.

21. The issue before this Tribunal did not concern the manner of recovery of expenses already paid to Mr. Awad, nor the applicability of a sliding scale set out in Staff Regulation 3.2(a), Appendix B to the Staff Rules, and Section 3.3 of ST/AI/2018/1/Rev.1 to such recovery, and the Tribunal made no order to such effect.

22. ST/AI/2018/1/Rev.1 implements Staff Regulation 3.2, Staff Rule 3.9 and Appendix B to the Staff Rules in relation to the education grant. Section 3.3 of ST/AI/2018/1/Rev.1 provides, in respect of reimbursement rates and amounts, that “(a)dmmissible expenses listed in section 3.1 above shall be reimbursed according to the global sliding scale below, regardless of the currency and the country in which the expenses are incurred”. Staff Regulation 3.2(a) provides that “(a)dmmissible expenses actually incurred shall be reimbursed based on a sliding scale, subject to a maximum grant as approved by the General Assembly”.

²⁰ *Clemente* Judgment, *op. cit.*, para. 8.

²¹ *Abbasi v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-315, para. 18.

23. Staff Rule 3.9(e) states that “(t)he amount to which a staff member may be entitled under the grant are set out in appendix B to the present Rules”. Appendix B (Education grant entitlements) specified in para. (i):

Admissible expenses shall include tuition, tuition in the mother tongue and enrolment-related fees. (...) Admissible expenses actually incurred shall be reimbursed at the rates indicated in the sliding scale below.

24. The sliding scale in respect of education grant entitlements provides that claims in the amount bracket USD 0–11,600 are subject to a reimbursement rate of 86 per cent and claims in the amount bracket USD 11,601–17,400 at the rate of 81 per cent.

25. The facts show that Mr. Awad paid USD 16,108.15 for education expenses. He submitted an advance request under Section 7 of ST/AI/2018/1/Rev.1 and received payment in the amount of USD 17,699.48. On 24 August 2020, he was informed by the HQCSS that his education grant entitlement was USD 10,722.80 and that the amount of USD 7,091.68 paid to him would be recovered.

26. The relief sought in this application by the Secretary-General concerns an issue not previously raised before the UNDT or the Appeals Tribunal, being the recovery of an amount already paid as an admissible expense on a sliding scale. There is nothing in the meaning or scope of the prior Judgment that is unclear or ambiguous. The terms of the order are clear. There is no need to interpret the prior Judgment to clarify its meaning, nor are there reasonable doubts about what constituted the decision of the Tribunal or the reasons for it. In addition, there is also no clerical, arithmetical or accidental error or slip in the Judgment that requires correction.

27. While the Appeals Tribunal will interpret its judgments and modify remedies awarded to correct obvious mistakes,²² it is not the task of the Tribunal to provide guidance on the manner in which its orders are to be implemented or executed.

28. The Secretary-General has not made out a case that the prior Judgment must be interpreted or corrected, nor have submissions been made regarding the impact of the interpretation or correction sought on other admissible expenses allowed in relation to the education grant. The Secretary-General has failed to make out a case that the current application

²² *Ade Mamonyane Beatrice Lekoetje v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1237, paras. 1–3; *Wilson v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-999, paras. 9–10.

for interpretation and correction of the prior Judgment ought to be admitted. For these reasons, the application falls to be dismissed.

Judgment

29. The Secretary-General's application for interpretation and correction of Judgment No. 2022-UNAT-1279 is dismissed.

Original and Authoritative Version: English

Decision dated this 27th day of October 2023 in New York, United States.

(Signed)

Judge Savage, Presiding

(Signed)

Judge Colgan

(Signed)

Judge Gao

Judgment published and entered into the Register on this 9th day of November 2023 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar