



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2009/039

Order No.: 83 (NBI/2010)

Date: 17 May 2010

Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Jean-Pelé Fomété

FRECHON

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE RESPONDENT'S
APPLICATION FOR INTERPRETATION
OF JUDGMENT**

Counsel for Applicant:

Tony Bautista
Hugh McCairley

Counsel for Respondent:

Emily Langston, ALS/OHRM, UN Secretariat

1. Introduction

1.1 On 7 May 2010, the Tribunal published Judgment No. UNDT/2010/089 in the following terms:

(i) The Applicant's case was remanded to the Administration for concurrence on the institution of the correct procedure required under ST/AI/1999/16;

(ii) The Respondent was ordered to inform the Tribunal of the progress made towards such concurrence, by or before 24 May 2010;

(iii) If the Administration concurs, the correct procedure is to be instituted within three months of the publication of the judgment, that is, by or before 10 August 2010, and the Administration shall notify the Tribunal of the outcome by that date;

(iv) Following the notification to the Tribunal of the outcome at paragraph (iii) above, or if the Administration does not concur on the institution of the correct procedure required under ST/AI/1999/16 as required under paragraph (ii) above, the Tribunal shall publish a separate judgment on the merits of the case; and

(v) The Administration was ordered to pay the Applicant compensation equivalent to three months' net base salary for the delay in complying with the procedures required under ST/AI/1999/16.

1.2 By an Application dated 13 May 2010, the Respondent requests for clarification of Judgment No. UNDT/2010/089 and submits that:

(i) On 26 April 2010, the United Nations Appeals Tribunal ("Appeals Tribunal") issued its judgment on the Applicant's appeal against the decision taken by the Standing Committee of the United Nations Joint Staff Pension Fund ("Standing Committee of the UNJSPF") under ST/AI/1999/16, relating to the same injury as is the subject of the present proceedings. Therein, the Appeals Tribunal annulled the decision of the Standing Committee of the UNJSPF, dated

15 July 2009, rejecting the Applicant's request for a disability benefit and remanded the matter to the Standing Committee of the UNJSPF for reconsideration.

(ii) The Respondent requests clarification from the Tribunal on the effect, if any, of the Appeals Judgment vis-à-vis the Judgment of this Tribunal remanding this case for institution of the correct procedure under ST/AI/1999/16, and in particular with respect to the requirement that the Respondent inform the Tribunal on or before 24 May 2010 of the progress it has made towards such concurrence.

(iii) Accordingly, the Respondent requests that the Tribunal clarify the impact of the Appeals Judgment, if any, on the orders imposed on the Respondent in the present proceedings.

2. *Considerations*

2.1 The Tribunal does not find any ambiguity between the above-mentioned Appeal Judgment and Judgment No. UNDT/2010/089. Accordingly, pursuant to Article 30 of the UNDT Rules of Procedure, the Tribunal finds that this Application is not admissible and,

REJECTS the Respondent's Application for Interpretation.

(Signed)

Judge Nkemdilim Izuako

Dated this 17th day of May 2010

Entered in the Register on this 17th day of May 2010

(Signed)

Jean-Pelé Fomété, Registrar, UNDT, Nairobi