

UNDT/2012/026, Balogun

UNAT Held or UNDT Pronouncements

The Applicant received notification in writing on 30 September 2002 that his fixed-term contract would not be renewed after its expiry on 31 December 2002. The Applicant should therefore have requested a management evaluation by 30 November 2002. The Applicant did not do so. The Applicant, however, requested a management evaluation on 23 October 2009, over seven-and-a-half years after receiving the administrative decision that his fixed-term contract would not be renewed beyond its expiry date. The Tribunal has held that it does not have the power to suspend or waive the deadlines for management evaluation (Rosana; Costa). Furthermore, the request for management evaluation, when it is required, is mandatory, not optional (Caldarone). The Tribunal finds that this Application is not receivable because it is time-barred. Notwithstanding the fact that this Application is time barred, the issue of termination indemnity is also barred by the doctrine of res judicata. Though the Applicant may couch this Application in different terms from his previous applications, it is still res judicata. The Applicant does not have the right to bring the same complaints again (Bangoura). This Tribunal finds that the Applicant has abused the proceedings by filing three additional applications based on the same facts and issues as the original application, and costs should be awarded against him, pursuant to article 10.6 of the Statute of the Tribunal. The Tribunal is aware that the Applicant is no longer a staff member of the Organization and that it may be very difficult, if not impossible, to recover these costs from him. The above notwithstanding, the Tribunal still believes that where there is a glaring situation of abuse of its process, as a matter of principle, the litigant must be visited with such sanctions provided by the Statute. The Applicant is ordered to pay 500USD for abuse of proceedings.

Decision Contested or Judgment/Order Appealed

The Applicant, a former staff member of the United Nations Economic Commission for Africa (ECA), filed an Application with the United Nations Dispute Tribunal (UNDT) contesting the decision of ECA not to pay him termination indemnity, pursuant to Staff Regulations and 200-series rules regarding payment of termination indemnity, following the non-renewal of his fixed-term contract on 31 December 2002.

Legal Principle(s)

N/A

Outcome

Dismissed as not receivable

Outcome Extra Text

The Tribunal awarded costs against the Applicant.

Full judgment

[Full judgment](#)

Applicants/Appellants

Balogun

Entity

ECA

Case Number(s)

UNDT/NBI/2010/044

Tribunal

UNDT
Registry
Nairobi
Date of Judgement
15 Feb 2012
Duty Judge
Judge Boolell
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Abuse of process before UNDT/UNAT
Costs
Appointment (type)
Fixed-term appointment
Non-renewal
Applicable Law
Former Staff Rules

- Rule 111.2(a)
- Rule 208.5(a)
- Rule 209.2(a)
- Rule 209.5

Secretary-General's bulletins

- ST/SGB/2002/1

Staff Regulations

- Regulation 1.1(e)
- Regulation 9.1(b)
- Regulation 9.3(a)

UNDT Statute

- Article 10.6
- Article 3.1(b)
- Article 8.1(a)
- Article 8.1(b)
- Article 8.1(c)
- Article 8.1(d)(i)(a)

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

2010-UNAT-026

UNDT/2011/217

UNDT/2011/202

UNDT/2010/051

UNDT/2009/035