

# **2015-UNAT-559, Khan**

## **UNAT Held or UNDT Pronouncements**

UNAT held, in agreement with UNDT, that the decision of 23 April 2013 when the Appellant was informed that his post would be abolished on 31 December 2013, constituted the contested administrative decision in the case. UNAT agreed with the Appellant that, in its Order No. 98 (NY/2014), UNDT made no reference to considering receivability as a preliminary issue, however, UNAT held that the Appellant did not establish that such an error resulted in a manifestly unreasonable decision or had any effect at all on the decision. UNAT held that the Appellant's claim that he did not receive a fair trial could not be sustained. UNAT rejected the argument that the Appellant had no standard of education and was ignorant of the procedure of the UN internal justice system. UNAT held that it was the staff member's responsibility to ensure that he or she is aware of the applicable procedure in the context of the administration of justice at the UN and that ignorance could not be invoked as an excuse. UNAT held that the letter from UNICEF, informing the Appellant that his request was time-barred and that recourse lay with UNDT, could not be construed as a waiver by UNICEF Administration of the deadline for requesting management evaluation. UNAT held that UNDT properly considered the facts and the applicable statutory law and jurisprudence in arriving at its decision that the application was not receivable. UNAT held that, having failed to demonstrate that UNDT committed any error of law or any error of fact resulting in a manifestly unreasonable decision, the Appellant's appeal could not succeed. UNAT dismissed the appeal and affirmed the UNDT judgment.

## **Decision Contested or Judgment/Order Appealed**

The Applicant contested the abolition of his post. UNDT issued a summary judgment dismissing the application on the basis that the Applicant had failed to request management evaluation of the decision and therefore his application was not receivable.

## Legal Principle(s)

UNDT has no jurisdiction to waive deadlines for management evaluation. It is the staff member's responsibility to ensure that he or she is aware of the applicable procedure in the context of the administration of justice at the UN; ignorance cannot be invoked as an excuse.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Khan

## Entity

UNICEF

## Case Number(s)

2014-645

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

2 Jul 2015

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

## Applicable Law

UNAT Statute

- Article 2.1

UNDT Statute

- Article 8.3

## Related Judgments and Orders

UNDT/2014/090

2012-UNAT-211

2011-UNAT-184

2012-UNAT-218

2014-UNAT-470

2015-UNAT-521

2013-UNAT-301

2014-UNAT-402

2014-UNAT-472

2010-UNAT-036

2010-UNAT-079