

2016-UNAT-651, Choi

UNAT Held or UNDT Pronouncements

UNAT rejected the request for an oral hearing, finding it would not assist in the expeditious and fair disposal of the case according to Article 18. 1 of the UNDT RoP. UNAT noted that the judgment on revision being appealed was issued more than four years ago. UNAT held that the appeal was not receivable. On the merits, UNAT held that UNDT had correctly dismissed the application for revision since no material elements according to UNAT RoP could be shown to support the application, such as a new fact which, at the time the judgment was rendered, was unknown to UNAT and the moving party. UNAT dismissed the appeal as not receivable.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to summarily dismiss him from service on grounds of harassment and abuse of authority. UNDT issued its judgment on merits upholding the disciplinary decision taken to summarily dismiss the Applicant. The Applicant submitted an application for revision of judgment. The Secretary-General in his reply requested an award of costs against the Applicant for abuse of process. UNDT issued its judgment on revision dismissing the application in its entirety due to the attempt of the Applicant to relitigate his case without valid grounds.

Legal Principle(s)

In Bofill (judgment No. 2014-UNAT-478), UNAT stressed that: “This Tribunal has repeatedly held that it ‘has been strictly enforcing, and will continue to strictly enforce, the various time limits. The Appeals Tribunal has followed the jurisprudence of the former Administrative Tribunal according to which only circumstances ‘beyond his or her control that prevented the applicant from exercising the right of appeal in a timely manner may be considered ‘exceptional circumstances’ justifying a waiver of the statutory time limit’. The UNDT Statute and its Rules of Procedure set out the material elements which a moving party must show for an application for revision to be granted, and they are practically identical to those in the Statute and Rules of Procedure of UNAT, namely: “(1) a new fact which, at the time the judgment was rendered, was unknown to the Appeals Tribunal and the moving party; (2) such ignorance was not due to the negligence of the moving party; and (3) the new fact would have been decisive in reaching the original decision”.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Choi

Entity

Not indicated

Case Number(s)

2015-857

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Jun 2016

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters

Revision of Judgment

Jurisdiction / receivability (UNAT)

Temporal (ratione temporis)

Applicable Law

UNDT RoP

- Article 18.1
- Article 29

UNDT Statute

- Article 12.1

Related Judgments and Orders

UNDT/2015/064

2011-UNAT-102

2010-UNAT-029

2010-UNAT-043

2014-UNAT-478