

2018-UNAT-883, Khisa

UNAT Held or UNDT Pronouncements

UNAT considered whether exceptional circumstances should apply to the Appellant's appeal, under Article 8(3) of the UNDT Statute. UNAT held that UNDT was correct in its conclusion that absent a full explanation for the five-month delay after her discharge from the hospital, the Appellant could not avail herself of the plea of exceptional circumstances. UNAT held that UNDT did not err in finding that the application was not receivable. UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

The Applicant filed an application with UNDT, appealing the administrative decision imposing the disciplinary measure of separation of service. The Secretary-General filed a motion for summary judgment, contending that the application was not receivable. UNDT dismissed the Applicant's application as not receivable because she did not file it in a timely fashion, under Article 8(1)(d)(ii) of the UNDT Statute. UNDT also held that the Applicant's motion for suspension, waiver, or extension of time limit could not be entertained because it was not filed before the filing of her substantive application, under Article 8(3) of the UNDT Statute.

Legal Principle(s)

In cases where management evaluation is not required, in terms of Article 8(1)(d)(ii) of the UNDT Statute, the application to the UNDT must be filed within 90 calendar days of the applicant's receipt of the administrative decision. An application for waiver of timelines ordinarily must be filed before the application is made and not afterwards.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Khisa

Entity

UNMISS

Case Number(s)

2018-1176

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Oct 2018

President Judge

Judge Murphy

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Disciplinary sanction

Applicable Law

UNDT Statute

- Article 8.1(d)(ii)
- Article 8.3

Related Judgments and Orders

UNDT/2018/047