

2021-UNAT-1080, Mukeba

UNAT Held or UNDT Pronouncements

UNAT held the staff member's appeal of the UNDT Judgment was defective as it failed to identify any of the five grounds of appeal set out in Article 2.1 of the UNAT Statute. UNAT ruled that the appellant had failed to explain why the dismissal of his application by the UNDT was erroneous. Additionally, UNAT also held that it found no error in the practice of the UNDT to dismiss an application for want of prosecution when there is sufficient reason to assume that the applicant is no longer interested in the litigation, based on Article 19 (Case management) and Article 36 (Procedural matters not covered in the rules of procedure) of the UNDT Rules of Procedure. UNAT, however, cautioned that great care should be taken in exercising this power and it must be done only in instances where there is evidence that an applicant has failed to meet his obligations.

Decision Contested or Judgment/Order Appealed

UNDT dismissed the application of a former staff member for want of prosecution. The staff member had challenged the Administration's imposition of the disciplinary measure of separation from service for engaging in serious misconduct. The staff member had been directed on three separate occasions by the UNDT (10 June 2020, 15 June 2020, and 18 June 2020) to make the necessary submissions for the continuation of his case so it can proceed to a hearing on the merits, but he failed to do so, leading the tribunal to the conclusion that he was no longer interested in the pursuit of his proceedings and had abandoned his case. A day after the Judgment dismissing the case (30 June 2020), the staff member contacted the Registry asking the tribunal to reconsider the Judgment. The tribunal ordered the staff member to provide any justifications for his failure to respond to the previous communications and orders, and the latter explained that he understood the Registry's communication of 18 March 2020 to be a suspension of the hearing until the COVID-19 crisis had abated. Not finding his explanation compelling, the UNDT, on 7 July 2020, by Order No. 114 (NY/2020) rejected the staff member's request to reconsider its judgment on dismissal for want of prosecution.

Legal Principle(s)

An appeal must identify any of the five grounds of appeal set out in Article 2.1 of the UNAT Statute, explaining why the lower tribunal was in error. There is no fault with the practice and jurisprudence of the Dispute Tribunal to dismiss an application for want of prosecution when there is sufficient reason to assume that the applicant is no longer interested in the litigation. This power should be exercised only where there is sufficient evidence that an applicant has failed to meet his obligations to pursue his case.

Outcome

Appeal dismissed on receivability

Outcome Extra Text

UNAT dismissed the appeal finding that the appellant did not identify any errors in the judgment appealed. UNAT also found no fault in the practice of UNDT to dismiss an application for want of prosecution.

Full judgment

[Full judgment](#)

Applicants/Appellants

Mukeba

Entity

MONUSCO

Case Number(s)
2020-1425
Tribunal
UNAT
Registry
New York
Date of Judgement
19 Mar 2021
President Judge
Judge Knierim
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Jurisdiction / receivability (UNAT)
Procedure (first instance and UNAT)
Case management
Applicable Law
UNAT RoP
UNAT Statute

- Article 2.1

UNDT RoP

- Article 19
- Article 36
- Article 8.2

Related Judgments and Orders

UNDT/2020/103
UNDT/2019/157
UNDT/2010/047
UNDT/2009/061
2016-UNAT-707
2010-UNAT-051