

2021-UNAT-1128, Diane Fairweather

UNAT Held or UNDT Pronouncements

UNAT denied both applications. Regarding the application for interpretation, the Tribunal held that the Majority Judgment was clear and unambiguous in its meaning, leaving no confusion or reasonable doubt about its conclusions or reasons. The Tribunal found that it was a disguised way by the staff member to criticize or disagree with the Judgment. Regarding the application for revision, UNAT explained that the staff member did not identify a decisive fact that was unknown at the time of the Judgment. Instead, the staff member referred to events that occurred subsequent to the Judgment. As such, the Tribunal dismissed both applications.

Decision Contested or Judgment/Order Appealed

A staff member filed an application with the UNDT challenging the inordinate delay in the rebuttal process of her performance evaluations. The UNDT found the application not receivable as a performance evaluation, by itself, is not an appealable administrative decision. The staff member appealed the UNDT Judgment, and UNAT, in a majority opinion, agreed that the alleged delay in the rebuttal process did not result in direct legal consequences for the staff member. The Majority also addressed the staff member's claim that her performance appraisal had made her ineligible for certain benefits. In that regard, the Tribunal found that an automatic ineligibility for certain benefits, without a showing by the staff member that she had applied for such benefits and was subsequently denied, did not constitute direct legal consequences. The staff member applied for revision and interpretation of the UNAT Judgment.

Legal Principle(s)

A final decision of this Tribunal cannot be readily set aside based on the principle of *res judicata*. An application for interpretation is only needed to clarify the meaning

of a judgment when it leaves reasonable doubts about the will of the Tribunal or the arguments leading to a decision. For a revision application, an applicant must show: (i) a decisive fact, at the time of the Appeals Tribunal's judgment, was unknown to both the Appeals Tribunal and the party applying for revision; (ii) that such ignorance was not due to the negligence of the applicant, and (iii) that the facts identified would have been decisive in reaching the decision.

Outcome

Revision, correction, interpretation or execution

Outcome Extra Text

Applications for interpretation and revision dismissed.

Full judgment

[Full judgment](#)

Applicants/Appellants

Diane Fairweather

Entity

OHCHR

Case Number(s)

2020-1416

Tribunal

UNAT

Registry

New York

Date of Judgement

25 Jun 2021

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters
Appeals of final judgments
Interpretation of Judgment
Revision of Judgment

Applicable Law

UNAT RoP

- Article 24
- Article 25

UNAT Statute

- Article 10.6
- Article 11
- Article 11.1
- Article 11.3

Related Judgments and Orders

UNDT/2019/134

2020-UNAT-1003

2013-UNAT-315

2017-UNAT-735