

UNDT/2022/003, Soni

UNAT Held or UNDT Pronouncements

Pursuant to art. 9 of the Tribunal's Rules of Procedure and to established jurisprudence, the Tribunal can choose to issue a summary judgment without taking any argument or evidence from the parties as the Tribunal's Statute prevents it from receiving a case that is not receivable. Likewise, art. 19 provides that it may issue any order or direction that is appropriate for the fair and expeditious disposal of the case. In addition, such provision allows the Tribunal to deal with issues of receivability as a preliminary matter in the interest of judicial economy. Therefore, the Tribunal can examine and rule upon the matter of receivability as a preliminary matter through a summary judgment in the interest of fairness and judicial economy.

In matters arising from an implied administrative decision, such as one derived from a constructive dismissal, the determination of deadlines for the purpose of management evaluation request is not a straight-forward exercise. However, it is well-established in the jurisprudence that the date of a contested implied administrative decision must be determined as that on which a staff member knew or reasonably should have known about it. In this case, the date of the decision would have been the date the Applicant reiterated his resignation or, at the latest, the date the Organization accepted his resignation. Under either of these scenarios, the Applicant missed the MER deadline. Accordingly, the application is not receivable.

It is well-established within the jurisprudence that ignorance of the law cannot be invoked as an excuse for missing deadlines. It is the staff member's responsibility to ensure that he is aware of the applicable procedures in the context of the administration of justice.

Even though art. 8.3 of the Tribunal's Statute allows for suspension or waiver of deadlines in exceptional circumstances, such authority does not extend to MER deadlines. Accordingly, the Tribunal cannot waive the missed MER deadline for the

purpose of examining a case on the merits.

In addition, exceptional circumstances are circumstances beyond one's control that would prevent someone from exercising their right in a timely manner. None of the events recounted by the Applicant amount to exceptional circumstances.

Decision Contested or Judgment/Order Appealed

The Applicant contests his separation from service on the grounds of constructive dismissal and coerced resignation.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Soni

Entity

UNICEF

Case Number(s)

UNDT/GVA/2021/061

Tribunal

UNDT

Registry

Geneva

Date of Judgement

13 Jan 2022

Duty Judge

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Separation from service

Non-renewal

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Administrative decision

Implied administrative decision

Applicable Law

UNDT RoP

- Article 9
- Article 19

UNDT Statute

- Article 8.1(c)
- Article 8.1(d)(i)
- Article 8.3

Staff Rules

- Rule 11.2

Related Judgments and Orders

2013-UNAT-361

2011-UNAT-184

2015-UNAT-594

2015-UNAT-538

2015-UNAT-588

2011-UNAT-180

2017-UNAT-731