

2022-UNAT-1191, Abdalla Abdalla

UNAT Held or UNDT Pronouncements

Mr. Abdalla filed an application for revision and interpretation of Judgment No. 2021-UNAT-1078, claiming that the filing of the Secretary-General's appeal had a suspensive effect on the ongoing proceedings in the UNDT, that therefore the extended time limit to file an application would not have elapsed, and thus his ultimate application should be received; and that once UNAT had dismissed the Secretary-General's appeal, it should have remanded the case for further adjudication. UNAT found that Mr. Abdalla had failed to point to any statement or consideration in the UNAT Judgment which would be ambiguous or unclear, and thus in need of clarification; nor did he argue that he had discovered a decisive fact which was unknown to the Appeals Tribunal at the time the Judgment was rendered. There was accordingly no legal basis to revisit the issue in this case. UNAT further held that it was clear from the Appeals Tribunal Judgment that a remand would have served no purpose as the case had been disposed of due to a lack of application, despite the fact that the motion for an extension of time had been granted. UNAT also found baseless Mr. Abdalla's argument that the Secretary-General's appeal had suspended the proceedings before the UNDT: Mr. Abdalla's contention that UNAT should have determined the suspension of the UNDT proceedings did not justify an interpretation of judgment, as there was no such provision for this in law; nor was there such determination by the Tribunals, nor any request by Mr. Abdalla in this regard. Moreover, the UNDT found that the previous UNAT decision had been in Mr. Abdalla's favour, since it dismissed the Secretary-General's appeal as non-receivable, when in fact Mr. Abdalla had not challenged the contested decision within the new deadline established by the UNDT. Nor did he contest the UNDT's Order to Dispose on the grounds that no application had been filed. Incidentally, the Appeals Tribunal found that the application for revision seemed to be non-receivable *ratione temporis*, as it was not filed within 30 days of discovery of any alleged new facts. As discussed, here there appear to be no new facts. In light of the aforementioned, the Appeals Tribunal's Judgment stands and Mr. Abdalla's application for revision and interpretation of the Judgment must accordingly fail.

Decision Contested or Judgment/Order Appealed

By Order No. 103 (NBI/2020) of 28 May 2020, the UNDT granted Mr. Abdalla's motion for an extension of time for filing an application. By Order No. 103 (NBI/2020) of 28 May 2020, the UNDT extended the time for filing an application to 24 July 2020. On 29 June 2020, the Secretary-General filed an appeal contesting the Order. On 2 September 2020, the UNDT issued Order No. 169 (NBI/2020) (Order to Dispose), in which the UNDT noted that Mr. Abdalla had not filed an application within the extended time limit and therefore authorized the Registry to record the case as disposed without application. On 19 September 2020, Mr. Abdalla filed his application before the UNDT. That same day, he also filed a motion to reopen the proceedings and to allow him to file a late application subject to the outcome of the Secretary-General's appeal. According to Mr. Abdalla, the Nairobi Registry declined to register the motion on the ground that the case had been closed. By Judgment No. 2021-UNAT-1018 dated 19 March 2021, UNAT found moot and dismissed the Secretary-General's appeal as non-receivable, on the basis that: i) according to UNAT jurisprudence, interlocutory appeals on matters of evidence, procedure and trial conduct are generally not receivable, unless it is clear and manifest that the UNDT has exceeded its jurisdiction or competence, which was not the case ; and ii) UNAT found that Mr. Abdalla had not filed an application within the extended time limit, which led to the disposal of the case without application after the filing of the appeal by the Order to Dispose dated 2 September 2020.

Legal Principle(s)

A final UNAT decision cannot be readily set aside based on the principle of res judicata. 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. But if the judgment is comprehensible and leaves no reasonable doubt as to what it means, whatever the opinion the parties may have about it or its reasoning, an application for interpretation is not admissible. In an application for revision, an applicant must show or identify: (i) fact(s) that, at the time of the Appeals Tribunal's judgment, were 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. An application seeking revision of a final judgment of the Appeals Tribunal can only succeed if it fulfils the strict and exceptional criteria established under Article 11 of the Statute.

Outcome

Revision, correction, interpretation or execution

Outcome Extra Text

UNAT dismissed the application.

Full judgment

[Full judgment](#)

Applicants/Appellants

Abdalla Abdalla

Entity

UN Secretariat

Case Number(s)

2021-1562

Tribunal

UNAT

Registry

New York

Date of Judgement

18 Mar 2022

President Judge

Judge Halfeld

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appeals of final judgments

Interpretation of Judgment

Revision of Judgment

Judgment-related matters

Applicable Law

UNAT RoP

- Article 24
- Article 25

UNAT Statute

- Article 10.6
- Article 11.1
- Article 11.3

Related Judgments and Orders

2021-UNAT-1128