

# **2023-UNAT-1352, Samer Nayif Mahmud Mohammad**

## **UNAT Held or UNDT Pronouncements**

The UNAT held that the Applicant's application for revision did not comply with the requirements set out in Article 11(1) of the Appeals Tribunal Statute and Article 24 of the Appeals Tribunal Rules of Procedure. Indeed, it concluded that there was no fact discovered after the issuance of the UNAT Judgment, which was unknown to the Appeals Tribunal and to the Applicant. Rather, it found that his submissions basically repeat or add to the same arguments which were previously assessed by the Agency, the UNRWA DT and the Appeals Tribunal. It concluded that the only new arguments advanced by the Applicant were merely nuances of the same general argument challenging the validity of the evidence produced after the re-opening of the investigation which led to his summary dismissal. It held that such arguments pertain to facts known to the Applicant at the time of the proceedings and, therefore, they should have been presented earlier and cannot be admitted as sufficient grounds for revision of Judgment No. 2022-UNAT-1195.

The UNAT dismissed the application for revision.

## **Decision Contested or Judgment/Order Appealed**

In the underlying UNAT Judgment, the Applicant had contested the decision of the UNRWA to impose on him the disciplinary measure of summary dismissal for serious misconduct. In Judgment No. 2022-UNAT-1195, the Appeals Tribunal affirmed the UNRWA DT Judgment No. UNRWA/DT/2021/003, in which the UNRWA DT dismissed the Applicant's application.

## **Legal Principle(s)**

Pursuant to the relevant provisions of the Appeals Tribunal Statute and the Appeals Tribunal Rules of Procedure, for an application for revision to be considered receivable, it should comply with four requirements simultaneously:

i) the new fact discovered was unknown to the Appeals Tribunal and to the party applying for revision at the time the judgment was rendered; ii) such ignorance was not due to negligence of the moving party; iii) the new fact would have been decisive in reaching the original judgment; and iv) the application was made within 30 calendar days of the discovery of the fact and within one year of the date of the judgment.

The Appeals Tribunal Statute provides that the judgments of the Appeals Tribunal shall be final and without appeal. An application for revision is not a substitute for appeal and no party may seek revision of a judgment merely because it is dissatisfied with the pronouncement of the Appeals Tribunal and wants to have a second round of litigation. Moreover, revision of a final judgment is an exceptional procedure and not an additional opportunity for a party to relitigate arguments that failed at trial or on appeal.

## Outcome

Revision, correction, interpretation or execution

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Samer Nayif Mahmud Mohammad

## Entity

UNRWA

## Case Number(s)

2022-1742

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

10 Jul 2023

## President Judge

Judge Halfeld

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Revision of Judgment  
Judgment-related matters

## Applicable Law

UNAT RoP

- Article 24

UNAT Statute

- Article 10.5(a)
- Article 10.6
- Article 11

- Article 11.1

## Related Judgments and Orders

2013-UNAT-392

2011-UNAT-145

2013-UNAT-352

2011-UNAT-102

2013-UNAT-356