

UNDT/2023/126, Abbas

UNAT Held or UNDT Pronouncements

The Tribunal noted that the Applicant contended that he was separated for non-disciplinary reasons, while the Respondent provided proof indicating that the termination decision was made on 11 March 2022 and rose from an incident on 2 October 2019 in which the Applicant allegedly drove a United Nations vehicle while under the influence of alcohol and damaged that vehicle.

The Tribunal thus held that: a) to the extent that the termination decision was for reasons other than disciplinary, the Statute of the United Nations Dispute Tribunal required that, to be receivable, the Applicant ought to have previously submitted the contested decision for management evaluation. The Applicant did not. Therefore, the application was found not receivable on that basis; and b) to the extent that the termination was a disciplinary measure, thus not requiring management evaluation, the deadline for filing an application to challenge that decision was 90 days from the receipt by the Applicant of the administrative decision. That deadline was 28 September 2022 and the application was filed on 5 June 2023. Therefore, the application was not receivable as being time-barred.

Accordingly, the application was dismissed as not receivable.

Decision Contested or Judgment/Order Appealed

The Applicant contested the Administration's decision to separate him from service due to misconduct.

Legal Principle(s)

Pursuant to the settled jurisprudence, the Tribunal must be satisfied that an application is receivable under art. 8 of the Dispute Tribunal's Statute and a

determination on receivability must be made without regard to the merits of the case.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Abbas

Entity

UNMISS

Case Number(s)

UNDT/NBI/2023/048

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

16 Nov 2023

Duty Judge

Judge Wallace

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Reasons

Administrative decision

Applicable Law

Staff Rules

- Rule 11.2

UNDT Statute

- Article 8.1(c)

None

Related Judgments and Orders

UNDT/2020/020

2021-UNAT-1106