2024-UNAT-1445, Moner Ahmed Nasser

UNAT Held or UNDT Pronouncements

The UNAT held that the staff member's application for revision failed to meet the statutory requirements outlined in Article 11(1) of the UNAT Statute. It found that the facts raised by the staff member were not unknown to him before the issuance of the UNAT Judgment and, in any event, would not have changed the outcome of the case, which was found to be not receivable. The UNAT further held that the staff member's arguments were irrelevant and reiterated those he previously advanced before the UNAT.

The UNAT dismissed the application for revision.

Accountability Referral: The UNAT noted that the staff member's case had already been subject to judicial review, resulting in a final and binding Judgment issued by the UNRWA DT in 2012. By revisiting the matter in 2022, the UNRWA DT redecided an issue that had been *res judicata* since 2012. The UNAT found that the Administration failed to raise this crucial issue before the UNRWA DT or, at least, before the UNAT on appeal. The UNAT held that this failure resulted in adding unnecessary burden on the system of administration of justice and could lead to contradictory judgments on the same issue. Therefore, the UNAT referred the matter to the Commissioner-General of UNRWA for possible action to enforce accountability.

Decision Contested or Judgment/Order Appealed

Previous UNAT Judgment: The Applicant, a former staff member of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), contested the decision of the Agency to impose on him the disciplinary measure of separation from service. In its Judgment No. 2023-UNAT-1360, the Appeals Tribunal affirmed the UNDT Judgment dismissing the staff member's application as not

receivable temporis because he filed it more than three years after his receipt of the contested decision pursuant to Article 8(4) of the UNRWA Dispute Tribunal Statute.

Former staff member applied for revision of Judgment No. 2023-UNAT-1360.

Legal Principle(s)

An application for revision is not a normal procedure to contest executable judgments or an additional opportunity for parties to relitigate their cases that failed at trial. Rather, it is an exceptional procedure designed to address extraordinary circumstances involving the late discovery of a decisive fact.

In accordance with Article 11(1) of the UNAT Statute, for a request for revision to succeed, the applicant must satisfy several cumulative conditions: identify a decisive fact that, at the time of the UNAT Judgment, was unknown to both the Appeals Tribunal and the party applying for revision; demonstrate that such ignorance was not due to the negligence of the applicant; and establish that the identified fact would have been decisive in reaching the decision. Moreover, the application for revision must be made within 30 calendar days from the discovery of the decisive fact and within one year of the date of the UNAT Judgment.

Outcome

Revision, correction, interpretation or execution

Full judgment

Full judgment

Applicants/Appellants

Moner Ahmed Nasser

Entity

UNRWA

Case Number(s)

2023-1849

Tribunal

UNAT

Registry

New York

Date of Judgement

16 Jul 2024

President Judge

Judge Sheha
Judge Gao
Judge Savage

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters
Revision of Judgment
Jurisdiction / receivability (UNDT or first instance)
Temporal (ratione temporis)
Referral for accountability

Applicable Law

UNAT Statute

- Article 10.6
- Article 11.1

Related Judgments and Orders

2023-UNAT-1360
2011-UNAT-102