

2024-UNAT-1446, Ashok Kumar Nigam

UNAT Held or UNDT Pronouncements

The UNAT held that, since Mr. Nigam based his interlocutory appeal on alleged errors of fact and law by the UNDT Judge President, with no allegation of the UNDT acting extra-jurisdictionally or similarly in excess of its jurisdiction, he must wait to exercise his right of appeal until a final decision has been made.

The UNAT concluded that an earlier UNDT Judgment contained neither any indication of bias by Judge Belle against Mr. Nigam, nor any criticism beyond what a reasonably informed observer might expect from a partly erroneous judgment and its subsequent appellate review.

The UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

A former staff member brought a case before the UNDT presided over by Judge Francis Belle. In Judgment No. UNDT/2021/092, the UNDT found Mr. Nigam's case not receivable. Mr. Nigam appealed and succeeded in setting aside the UNDT Judgment. Among the remedies was the remission of the case to the UNDT for decision on its merits by Judge Belle.

Mr. Nigam sought to have Judge Belle recused, but in Order No. 092 (NBI/2023), the UNDT Judge President rejected the claim.

Mr. Nigam appealed.

Legal Principle(s)

Appeals against interlocutory orders of the UNDT may be entertained in exceptional cases, where there is a claimed exercise of a jurisdiction not possessed by the Dispute Tribunal or there has been a similar fundamental jurisdictional error, or where the first instance tribunal has acted irremediably.

Case management decisions by the UNDT are not appealable until the proceeding before the UNDT has been finalized.

The mere fact that a judge has erred previously, even in the same case, is not alone a ground to disqualify that same judge from deciding other issues in or the remainder of the case.

The appearance of a conflict of interest involving a judge must be reasonable, meaning it must be objectively viewed and substantiated. Further, this appearance must be based on proper information, requiring a thorough and objective assessment of the situation.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Ashok Kumar Nigam

Entity

UNDP

Case Number(s)

2023-1832

Tribunal

UNAT

Registry

New York

Date of Judgement

18 Jul 2024

President Judge

Judge Colgan

Judge Gao

Judge Savage

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Conduct

Receivability

Case management

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

Procedure (first instance and UNAT)

Applicable Law

UNAT Statute

- Article 2.1

Other UN issuances (guidelines, policies etc.)

- Code of Conduct for the Judges of UNDT and UNAT

Related Judgments and Orders

2022-UNAT-1282

2019-UNAT-975