

UNDT/2024/041, Dhindsa

UNAT Held or UNDT Pronouncements

The Tribunal noted that Order No. 20 (NBI/2024) in Case No. UNDT/NBI/2024/008 rejected the Applicant's application for suspension of action under art. 13 of the UNDT Rules of Procedure. The Applicant maintained that the Tribunal misconstrued his application in Case No. UNDT/NBI/2024/008 as being filed under art. 13 of the UNDT Rules of Procedure (governing suspension of action during a management evaluation), rather than art. 14 (governing suspension of action during the proceedings) of those Rules.

The Tribunal held that to the extent that the Applicant's intent was to file an application under art. 14, and that this "fact" was unknown to the Tribunal at the time of its Order No. 20 (NBI/2024), this unknown fact was not a decisive fact. Nowhere in the application for Case No. UNDT/NBI/2024/008 did the Applicant indicate that he was filing a request under art. 14 suspension of action. However, his application was filed while he was awaiting a response from management evaluation.

An application under art. 14 requires a party to have filed a substantive application on the merits as a prerequisite. No such substantive application was filed in Case No. UNDT/NBI/2024/008, hence art. 14 would not apply. It was reasonable for the Tribunal to assume that the request was meant to be made pursuant to art. 13.

Suspension of action under either art. 13 or art. 14 of the Tribunal's Rules of Procedure has the same requirements: "where the contested administrative decision appears *prima facie* to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage". The Applicant did not address the three required elements in his original application and, in his 13 February submission in the previous case, he conceded that he was unlikely to meet the required three elements.

The Tribunal held that the application for suspension of action under the previous case was properly denied, regardless of whether the Applicant intended to invoke

art. 13 or art. 14. Consequently, the Tribunal dismissed the application for revision.

Decision Contested or Judgment/Order Appealed

The Applicant filed an application for revision of judgment directed at Order No. 20 (NBI/2024), which was issued in a previous case, Case No. UNDT/NBI/2024/008.

Legal Principle(s)

An Applicant seeking the revision of a judgment bears the burden of establishing the discovery of a decisive fact unknown to him or to the Tribunal at the time when the judgment was rendered.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Dhindsa

Entity

UNSOA

Case Number(s)

UNDT/NBI/2024/009

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

11 Jul 2024

Duty Judge

Judge Wallace

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

N/A

Applicable Law

UNDT RoP

- Article 13
- Article 14
- Article 29.1

UNDT Statute

- Article 12.1

Related Judgments and Orders

UNDT/2011/187