

UNDT/2025/002, Shiala Nsilu

UNAT Held or UNDT Pronouncements

The Tribunal noted that the evidence before it indicated that the contested decision was contained in a letter dated 21 May 2024. On 30 May 2024, the Chief of the UNICEF Field Office (“CFO”) met with the Applicant to hand-deliver the sanction letter to the Applicant, but the Applicant did not sign a declaration of receipt. As a result, the CFO noted, “Document read to staff on 30/05/2024, who then refused to acknowledge receipt of the letter”. On the same day, the Administrative Law Unit sent the contested decision to the Applicant via email.

The Tribunal further observed that the Applicant denied having received the sanction letter on 30 May 2024. The Applicant indicated that he received it on 5 June 2024.

The Tribunal, thus, concluded that whether the Applicant received the sanction letter on 30 May 2024 (as the Respondent claimed) or on 5 June 2024 (as the Applicant claimed), the application filed on 4 September 2024 was filed out of time. Going by 30 May 2024, the Applicant should have filed the Application within 90 days of 30 May 2024, i.e., by 28 August 2024. Going by 5 June 2024, then he should have filed the application by 3 September 2024. Either way, the application was filed after the statutory deadline.

Accordingly, the Tribunal dismissed the application as not receivable *ratione temporis*.

Decision Contested or Judgment/Order Appealed

The Applicant, on 4 September 2024, filed an incomplete application, which he completed on 17 September 2024, contesting UNICEF’s decision to separate him from service due to misconduct.

Legal Principle(s)

Pursuant to article 8.1(d)(ii) of the UNDT Statute, an application is receivable if in cases where management evaluation of the contested decision is not required, it is filed within 90 calendar days of the applicant's receipt of the administrative decision. Staff rule 11.4(b) sets the same deadline.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Shiala Nsilu

Entity

UNICEF

Case Number(s)

UNDT/NBI/2024/061

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

15 Jan 2025

Duty Judge

Judge Wallace

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Temporal (ratione temporis)

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

Staff Rules

- Rule 11.4(b)

UNDT Statute

- Article 8.1(d)(ii)

Related Judgments and Orders

2010-UNAT-043

2014-UNAT-470

2011-UNAT-144

2017-UNAT-731

2016-UNAT-693