



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2022-UNAT-1302

**Seyed Muhammad Hilmy Moulana
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

Before:	Judge Martha Halfeld, Presiding Judge Graeme Colgan Judge Kanwaldeep Sandhu
Case No.:	2022-1640
Date of Decision:	28 October 2022
Date of Publication:	27 December 2022
Registrar:	Juliet Johnson

Counsel for Appellant:	Cristián Gimenez Corte
Counsel for Respondent:	Francisca Lagos Pola

JUDGE MARTHA HALFELD, PRESIDING.

1. The United Nations Appeals Tribunal (UNAT or Appeals Tribunal) has before it an appeal of Judgment No. UNDT/2021/115¹ of 5 October 2021 (the impugned Judgment) submitted by Mr. Seyed Muhammad Hilmy Moulana.
2. Before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal), Mr. Moulana contested the decision not to select him for the position of Requisitions Officer, advertised through Job Opening (JO) No. 136259. In the impugned Judgment, the UNDT dismissed Mr. Moulana's application on the basis that his candidature had received full and fair consideration and there was an absence of bias or procedural breach in the selection process.
3. For the reasons set out below, we reverse the UNDT Judgment and remand the case to the UNDT for determination *de novo* and *ab initio* by another Judge.

Facts and Procedure

4. The following facts are taken from the Impugned Judgment²:

... In January 2018, Generic Job Opening No. 88622 for the post of Requisitions Officer, FS-6 was advertised in *Inspira* for roster purposes ("GJO# 88622"). The Applicant applied for the post on 6 January 2018.

... Pending the completion of the rostering exercise in relation to GJO# 88622, UNMISS advertised a temporary job opening for the position of Requisitions Officer TJO# 95616. The Applicant also applied for this position. On 11 July 2018, another candidate HH was selected for the position. HH was granted a temporary appointment initially until 3 November 2019 and it was subsequently extended until 2 November 2020.

... On 27 November 2019, the Applicant was invited for the interview of the GJO# 88622. On 21 January 2020, the Applicant and HH were placed on a roster of pre-approved candidates for the FS-6 Requisitions Officer post.

... From 27 May 2020 to June 2020, Recruit from Roster JO# 136259 for the post of Requisitions Officer was issued in *Inspira*. The Applicant applied for the position on 3 June 2020.

¹ *Moulana v. Secretary-General of the United Nations*, Judgment No. UNDT/2021/115.

² *Ibid.*, paras. 6-12 (footnotes omitted).

... On 12 June 2020, the Human Resources Management Section (“HRMS”), UNMISS, released 16 applications to the hiring manager for review and further assessment. Out of the 16 candidates, the hiring manager recommended three, including the Applicant, to the Head of Mission (“HM”) for selection for the post. The hiring manager proposed HH as the most suitable candidate for the post on account of her excellent experience in acquisition planning and requisitioning and having led a team of requisitioners to successfully implement the Mission’s Demand Acquisition Plans for both the 2019 and 2020 periods.

... On 13 July 2020, the HM selected HH for the position and not the Applicant. On 5 August 2020, HRMS informed the Applicant that he had not been selected for the position.

... On 10 August 2020, the Applicant requested management evaluation of the contested decision. On 29 September 2020, the Management Evaluation Unit informed the Applicant that the Secretary-General had decided to uphold the contested decision.

Proceedings before the UNDT

5. During the proceedings before the UNDT, Mr. Moulana filed a motion for production of specific documents on 30 January 2021 (Motion), which was never ruled upon, despite his counsel’s reminders in subsequent e-mail communications with the UNDT Registry in Nairobi at least twice, in April and July 2021.

UNDT Judgment

6. On 5 October 2021, the UNDT issued its Judgment, remaining silent regarding the Motion. The UNDT reviewed the record and concluded that proper procedures were followed during the selection exercise and that Mr. Moulana received full and fair consideration for JO No. 136259 and that he did not rebut the presumption of regularity through clear and convincing evidence.³

7. Noting that the Hiring Manager took into account HH’s experience, the UNDT held that HH was more suitable for the position than Mr. Moulana, as evidenced by the comparative analysis report and the selection memorandum.⁴ Further, the UNDT observed that the Hiring Manager had broad discretion in choosing any of the recommended candidates and that Mr. Moulana did not have a right to be selected.⁵

³ *Ibid.*, para. 36.

⁴ *Ibid.*, para. 37.

⁵ *Ibid.*, para. 38.

8. The UNDT held that Mr. Moulana produced no evidence of bias or any procedural breach in the selection process.⁶

9. The UNDT recognized the experience that qualified HH for selection over Mr. Moulana, and her eligibility under ST/AI/2010/3 (Staff selection system).⁷ Noting that HH was a rostered candidate, the UNDT held that Mr. Moulana's assertion that HH lacked Central Review Board (CRB) endorsement was without merit.⁸

10. The UNDT was satisfied that due regard was given to geographic representation and to candidates from troop and police-contributing countries in the selection decision.⁹

11. On application of Section 1.8(a) of ST/AI/1999/9 (Special Measures for the Achievement of Gender Equality), the UNDT found no reason to question the decision to select a female candidate to fill the contested vacancy.¹⁰

12. The UNDT dismissed the application.¹¹

UNAT Appeal

13. On 3 December 2021, Mr. Moulana submitted an appeal of the impugned Judgment.

14. On 18 February 2022, the Secretary-General submitted his answer.

Submissions

Mr. Moulana's Appeal

15. Mr. Moulana submits that the UNDT erred on a question of fact by stating that the CRB had endorsed the placement of HH on a roster when this endorsement had actually never taken place. Mr. Moulana submitted that the placement of HH on the roster was "null" because it was not endorsed by any CRB, as required by Sections 2.3 and 9.4 of ST/AI/2010/3. Mr. Moulana submits that the document provided by the Respondent (Batch Transmittal Memo to the Central Review Body of 21 January from the Assessment Panel) was not the required endorsement.

⁶ *Ibid.*, para. 40.

⁷ *Ibid.*, para. 41.

⁸ *Ibid.*, para. 42.

⁹ *Ibid.*, paras. 44-45.

¹⁰ *Ibid.*, para. 46.

¹¹ *Ibid.*, para. 48.

Recalling Section 4.7 of ST/SGB/2011/7 (Central review bodies), Mr. Moulana submits that there is no evidence on file of the endorsement of HH. Mr. Moulana submits that the UNDT thus committed an error in fact which led to the manifestly unreasonable decision that Mr. Moulana had produced no evidence of bias or any procedural breach in the selection process. In support of the contention that endorsements by a CRB are required in selection and promotion processes, Mr. Moulana relies on *Muwambi*¹² and *Niverte Noberasco*¹³.

16. Mr. Moulana submits that the UNDT failed to exercise the jurisdiction vested in it by not addressing his request for the production of documents, including his Motion. Mr. Moulana points out that the UNDT did address a request from the Respondent on receivability and that “[e]xercising its jurisdiction to address a request from the Respondent, and at the same time failing to exercise that same jurisdiction to address a request from the Appellant is not only a violation of the principle of equality, but is grossly unfair and unjust”.

17. Mr. Moulana submits that the UNDT committed an error in procedure by ignoring his requests for the production of documents. The Appellant submits that neglecting his Motion affected the decision in the case, since if the requested documents had been produced, the UNDT would have reached a different conclusion. In this regard, he relies on *Abbassi*¹⁴ and *Riano*¹⁵. Mr. Moulana submits that the failure to order the production of the documents shifted the burden of proof to the Respondent to prove that the Administration acted lawfully and that until the requested documents are produced, Mr. Moulana’s allegations should be considered established.

18. Finally, Mr. Moulana submits that the UNDT erred on a number of questions of law arising from the roster endorsement issue and failure to order the production of documents as set out above. These were: (1) the UNDT’s finding that Mr. Moulana had produced no evidence of bias or breach and that proper procedures had been followed; and (2) the UNDT’s establishing that all relevant evidence had been taken into consideration when his requests for the production of documents were ignored and neglected. Mr. Moulana submits that the UNDT erred on questions of law by taking decisions based on assumptions and not supported by the evidence produced.

¹² *Muwambi v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-780, para. 58.

¹³ *Niverte Noberasco v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1063, para. 40.

¹⁴ *Abbassi v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-110, para. 20.

¹⁵ *Riano v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2015-UNAT-529, para. 32.

17. In terms of remedy, Mr. Moulana requests the UNAT to order the production of the following documents relating to JO No. 136259:

- (a) The full text of the JO, including the deadline for applications;
- (b) Names of the applicants and dates of the submissions of the applicants;
- (c) HH's application;
- (d) Names of the shortlisted candidates who were invited for interview, and the dates of the interviews;
- (e) Names of the applicants who were shortlisted; and
- (f) Approval by the CRB of the rostered candidates.

In addition, the Appellant requests UNAT to rescind the contested decision, award compensation equal to the amount of money Mr. Moulana would have earned had he been selected for the position, and award compensation for the harm suffered as a consequence of his non-selection.

The Secretary-General's Answer

19. The Respondent submits that the UNDT correctly held that Mr. Moulana's candidacy for the position was given full and fair consideration, with reference to: HH's experience heading a team of requisitioners; HH's experience working with the UMOJA applications systems and the United Nations Headquarters UMOJA team; HH's successful implementation of the Mission Demand Acquisitions Plans for both 2019 and 2020; HH's higher rating for the competency of Planning and Organizing; and the fact that the Hiring Manager had, appropriately, taken into consideration HH's gender in pursuit of the goal of gender parity. The Respondent submits that the selection of HH over Mr. Moulana was reasonable, objective and supported by the record. There was no evidence of bias or any other improper motive and the presumption of regularity was not rebutted by Mr. Moulana.

20. The Respondent submits that the Appellant failed to demonstrate any error of law or fact by the UNDT warranting the reversal of the impugned Judgment.

21. On the UNDT's alleged error in finding that the CRB had endorsed the placement of HH on a roster when it had not, the Respondent submits that the evidence on record is sufficient to show that the CRB had endorsed the placement of HH on a roster. Further, the Secretary-General

submits that how HH was placed on the roster is outside the scope of the case. The Secretary-General submits that Mr. Moulana has not produced clear and convincing evidence rebutting that HH was on a roster for Requisitions Officer prior to being selected for the contested position.

22. On the UNDT's alleged error in procedure and failure to exercise its jurisdiction by failing to address Mr. Moulana's request for production of documents, including ruling on his Motion, the Secretary-General submits that there is no right for a party to have documents produced into evidence and no obligation on the UNDT to order such production or rule on motions requesting the production of evidence. The Secretary-General submits that the UNDT has full discretion in matters of case management (*Bastet*¹⁶, *Onifade*¹⁷) and does not need to address all submissions by a party (*Abu Jarbou*¹⁸). Further, the Secretary-General submits that most of the documents requested related to two other JOs, which are not the subject of the present case or relevant thereto. On Mr. Moulana's only relevant request for information (the names of shortlisted candidates invited to interviews and the dates of the interviews), the Secretary-General submits that these names are already on record. The Secretary-General submits that the Appellant had the comparative report of the informal interviews, and while the dates of the interviews might be relevant, this information would not have changed the outcome of the case. The Secretary-General submits that the fact that the UNDT did not order additional evidence to be produced does not reverse the onus, which was still on Mr. Moulana, to produce clear and convincing evidence that he was denied a fair chance of promotion.

23. The Secretary-General submits that the UNDT did not err in law by taking a decision that was not supported by evidence and did not err in finding that there was no procedural breach in the selection process. The Secretary-General submits that the evidence on record shows the Appellant's candidature was given full and fair consideration and the decision to select HH was based on evidence and had followed proper procedure.

24. The Secretary-General requests the UNAT to uphold the impugned Judgment and to dismiss the appeal.

¹⁶ *Bastet v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-423, para. 17.

¹⁷ *Onifade v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-668, para. 41.

¹⁸ *Abu Jarbou v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2013-UNAT-292, para. 47.

Considerations

The error in procedure by the UNDT

25. According to Article 2(1) of the Appeals Tribunal Statute, an appeal will be granted when a party has established that the UNDT, in rendering its judgment, exceeded its jurisdiction or competence, failed to exercise jurisdiction vested in it, erred on a question of law, committed an error in procedure such as to affect the decision of the case, or erred on a question of fact resulting in a manifestly unreasonable decision.

26. The first issue to be considered by the Appeals Tribunal is whether the UNDT failed to exercise the discretion vested in it or committed an error of procedure such as to affect the decision of the case, as contended by Mr. Moulana, when it failed to address his requests for the production of documents, including ignoring his Motion. Mr. Moulana also submits that the UNDT erred on questions of law by taking decisions based on assumptions and not supported by the evidence before it.

27. In rendering its Judgment, the UNDT applied the prevailing standard of review in non-selection cases which provides that, when a candidate has received fair consideration, absent discrimination and bias, in accordance with proper procedures, and when all relevant material has been taken into consideration, the Dispute Tribunal shall uphold the selection.¹⁹ The burden of proof is on the candidate challenging the non-selection to prove with “clear and convincing evidence” that this has not occurred.²⁰

28. In reviewing administrative decisions regarding appointments and promotions, the Appeals Tribunal has established these factors to be considered: “(a) whether the procedure as laid down in the Staff Regulations and Rules was followed; (b) whether the staff member was given fair and adequate consideration; and (c) whether the applicable Regulations and Rules were applied in a fair, transparent and non-discriminatory manner. The Tribunal’s role is not to substitute its decision for that of the Administration.”²¹

¹⁹ *Rolland v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-122, para. 4.

²⁰ *Ibid.*, para. 5.

²¹ *Savadogo v. Registrar of the International Tribunal for the Law of the Sea*, Judgment No. 2016-UNAT-642, para. 40.

29. If the Administration is able to even minimally show that the applicant's candidature was given full and fair consideration, then the presumption of regularity applies and the burden of proof shifts to the applicant who must show through clear and convincing evidence that he or she was denied a fair chance of promotion or selection.²²

30. This jurisprudence emanates from *Rolland v. Secretary-General of the United Nations*, 2011-UNAT-122, at paragraph 5 of that Judgment as follows:

We also hold that there is always a presumption that official acts have been regularly performed. This is called the presumption of regularity, but it is a rebuttable presumption. If the management is able to even minimally show that the appellant's candidature was given a full and fair consideration, then the presumption of law is satisfied. Thereafter the burden of proof shifts to the appellant who must be able to show through clear and convincing evidence that she was denied a fair chance of promotion. Rolland has failed to discharge this burden.

31. Although, as the UNAT noted at paragraph 6 of the *Rolland* Judgment, "failure of notification of non-selection may have a serious impact on the future career development of the staff member", the fact of non-selection itself may have such an adverse impact.

32. It is important to consider the factual and procedural context in which such challenges may be brought. The decision not to appoint is made by the Administration. The information objectively supporting that decision is all under the control of the Administration. All the staff member may have is his or her own application, or perhaps advice of their non-appointment. The staff member will almost certainly not have relevant information about other applicants or, in particular, the successful candidate.

33. That may be ameliorated by the disclosure of that information by the Administration as part of the preparation of the challenge for hearing in the UNDT. However, that process is not either one of full disclosure in all cases and is under the control of the UNDT, as opposed to being as-of-right.

34. In the present case, the UNDT found that proper procedures had been followed and that all relevant evidence had been taken into consideration, including that both HH and Mr. Moulana were placed on the roster. The UNDT further found that Mr. Moulana did not rebut, through clear and convincing evidence, the presumption of regularity that attaches to the selection exercise, and

²² *Rolland* Judgment, *op. cit.*, para. 5.

that Mr. Moulana had produced no evidence of bias or procedural breach in the selection process.²³ However, Mr. Moulana's requests for the production of documents were ignored and neglected, which is why he alleges that the UNDT committed an error of procedure that affected the decision in this case.

35. In order for the Appeals Tribunal to assess whether or not the documents involving the endorsement by the CRB of HH's placement on the roster were required, as claimed by Mr. Moulana, it is necessary to examine the applicable law. According to Section 2.3 of ST/AI/2010/3:

Selection decisions for positions up to and including the D-1 level are made by the head of department/office/mission, under delegated authority, *when the central review body is satisfied that the evaluation criteria have been properly applied and that the applicable procedures were followed.* If a list of qualified candidates has been endorsed by the central review body, the head of department/office/mission may select any one of those candidates for the advertised job opening... The other candidates shall be placed on a roster of pre-approved candidates from which they may be considered for future job openings at the same level within an occupational group and/or with similar functions.²⁴

36. Likewise, Section 9.4 of ST/AI/2010/3 provides that:

Candidates for position-specific job openings up to and including at the D-1 level which have been *included in a list endorsed by a central review body* other than the candidate selected for the specific position *shall be placed on a roster of candidates pre-approved for similar functions* at the level of the job opening, which shall be drawn from all duty stations for job openings in the Professional and above categories and the Field Service category. Following the selection decision, roster candidates shall be retained in a roster indefinitely or until such time the present administrative instruction is amended. *Candidates included in the roster may be selected* by the head of department/office for a subsequent job opening, *without reference to a central review body.*²⁵

37. The role of the CRB is hence central to selection decisions for positions up to and including the D-1 level, as its endorsement is required for placement of the individual on a list of rostered candidates. This conclusion is corroborated by Section 4.7 of ST/SGB/2011/7, regarding the role of the CRB in endorsing roster membership, wherein it provides:

²³ Impugned Judgment, paras. 36 and 40.

²⁴ Emphasis added.

²⁵ Emphasis added.

When the central review body has found that the evaluation criteria were properly applied and that the applicable procedures were followed, it shall so inform the head of department/office concerned or the Director of the Field Personnel Division in the case of the field central review bodies, through the review bodies' secretariat, and recommend that the head of department/office approve the proposed candidate(s) for selection or *placement on a roster*.²⁶

38. Concerning the role of the CRB, the Appeals Tribunal has previously held that the requirement of the central review body clearance is part of the selection process.²⁷ It has also established that:

When the central review body has found that the evaluation criteria were properly applied and that the applicable procedures were followed, it shall so inform the head of department/office and recommend that the head of department/office approve the proposed candidate(s) for selection. If the central review body has questions or doubts regarding the proper application of the evaluation criteria and/or the applicable procedures, it shall request the necessary information from the relevant responsible person. Once the questions are answered to the satisfaction of the central review body, it shall proceed as provided in Section 4.6 of ST/SGB/2011/7. If, after obtaining additional information, the central review body finds that the evaluation criteria were improperly applied and/or that the applicable procedures were not followed, it shall transmit its findings and recommendation to the official having authority to make the decision on behalf of the Secretary-General. In terms of Section 8.2 of ST/AI/2010/3, authority to make a selection decision with respect to a particular job opening shall be withdrawn when a central review body finds that the evaluation criteria have not been properly applied and/or the applicable procedures have not been followed.²⁸

39. In the present case, the UNDT based its finding that HH had been endorsed for roster membership by the CRB on a mere assumption, because both HH and Mr. Moulana had been placed on the roster in a previous competition.²⁹ This UNDT finding is contrary to the Appeals Tribunal jurisprudence, since there was no minimal proof of HH's actual endorsement by the CRB. Assuming that HH had the necessary CRB endorsement simply as a result of her being previously on a roster, when there was a request for production of documents which could have proven otherwise, the UNDT erred on a question of fact resulting in a manifestly unreasonable decision.

²⁶ Emphasis added.

²⁷ *Muwambi Judgment, op. cit.*, para. 58.

²⁸ *Niverte Noberasco Judgment, op. cit.*, para. 40 (emphasis added).

²⁹ Impugned judgment, para. 42.

40. The Secretary-General's reliance on the UNDT's discretion to order, or not to order, as the case may be, the production of certain documents is misplaced. It is true that the UNDT has broad discretion with respect to case management.³⁰ However, it is also incumbent upon a party to discharge his or her burden of proof. As previously held by the Appeals Tribunal, "it is our consistent jurisprudence that case management issues, including the question of whether to call a certain person to testify or to order the production of documents, remain within the discretion of the UNDT and *do not merit a reversal except in clear cases of denial of due process of law affecting the right to produce evidence by a party.*"³¹

41. Whereas in *Onifade* the Appeals Tribunal found that the party did not establish how the evidence he sought to be produced would have affected the outcome of the case, in this case, Mr. Moulana has done so. Here, the UNDT indeed dismissed Mr. Moulana's application on grounds of insufficient evidence of his allegations, whereas he had not been afforded the opportunity to provide the evidence he sought, nor had his motions to this effect acted upon by the Dispute Tribunal. By failing to address his requests, the UNDT violated Mr. Moulana's due process rights and deprived him of the opportunity to have his Motion assessed and possibly granted, following which he could have submitted the pieces of evidence which the UNDT found he failed to provide.

42. Furthermore, Mr. Moulana contends that HH's placement on the roster was itself tainted by irregularities, since he did not possess the necessary requirements to be eligible for the post. Once more, there was no minimal discharge of evidence by the Organization that HH was eligible for the post. Here, it was incumbent upon the Organization to discharge this minimal burden, as it possesses all documents relating to the selection exercise. In this regard, the Secretary-General's argument that Mr. Moulana cannot challenge a procedure surrounding the placement on the roster of another candidate is erroneous. It is true that Mr. Moulana does not have standing to challenge administrative decisions which do not directly affect his terms of appointment. However, once he alleged that his candidature for the post was not given full and fair consideration because another candidate was incorrectly placed on the roster, he was entitled to have the opportunity to provide evidence of his own assertions. Indeed, the fact that another candidate could possibly be

³⁰ *Riano* Judgment, *op. cit.*, para. 32; *Bastet* Judgment, *op. cit.*, para. 17; *Abbassi* Judgment, *op. cit.*, para. 20.

³¹ *Onifade v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-668, para. 41 (emphasis added).

unduly privileged in a competitive process could in theory be an element to prove bias against Mr. Moulana.

43. As the Appeals Tribunal has continuously held, if the Administration is able to even minimally show that the Appellant's candidature was given full and fair consideration, then this presumption stands satisfied. Thereafter, the burden of proof shifts to the staff member who must show through the onerous standard of clear and convincing evidence that they were denied a fair chance of selection.³² In the present case, Mr. Moulana did not have the opportunity to rebut the presumption of regularity with regard to HH's placement on the roster.

44. Therefore, regardless of whether or not Mr. Moulana's Motion should or should not have been granted, and while it might be true, as the Secretary-General argues, that most of the documents and information Mr. Moulana requested in his Motion related to two other job openings and are thus irrelevant to this case, it is also true that Mr. Moulana was entitled to a well-considered decision on his Motion. What matters most here is that the UNDT did not give proper consideration to his request for production of additional evidence. This is a substantial error in procedure, since it concerned Mr. Moulana's rights to due process, including receipt of a reasoned decision on his Motion.

45. Even if the Dispute Tribunal decided to deny Mr. Moulana's Motion, in total or in part, this decision would necessarily explain why the additional evidence which he requested would not have impacted the outcome of the case. As it stands now, there is no such explanation in the record, nor is there any judicial decision on the party's motion. This Tribunal is left only with the Secretary-General's submissions, which cannot be accepted unilaterally. The UNDT ignored Mr. Moulana's Motion and decided the merits of the case against his interests. This failure by the UNDT becomes even more relevant to the extent that Mr. Moulana's application was dismissed on account of his presentation of unsubstantiated allegations.

46. In the final analysis, the UNDT committed an error of procedure, as contemplated in Article 2(1)(d) of the Statute of the UNAT. The error was consequential in that it denied Mr. Moulana the opportunity to present fully his case to the UNDT.

³² *Rolland Judgment, op. cit.*, para. 26.

47. The appeal must accordingly succeed on this basis alone, and the Judgment of the UNDT falls to be reversed. Pursuant to Article 2(3) of the Appeals Tribunal Statute, the case is remanded to the UNDT for proper consideration of Mr. Moulana's motion for production of documents and further proceedings by another Judge. This decision renders moot Mr. Moulana's other claims regarding compensation.

Judgment

48. The Appellant's appeal is upheld, Judgment No. UNDT/2021/115 is reversed, and the case is remanded to the UNDT for determination *de novo* and *ab initio* by another Judge.

Original and Authoritative Version: English

Decision dated this 28th day of October 2022 in New York, United States.

(Signed)

Judge Halfeld, Presiding

(Signed)

Judge Colgan

(Signed)

Judge Sandhu

Judgment published and entered into the Register on this 27th day of December 2022 in New York, United States.

(Signed)

Juliet Johnson, Registrar