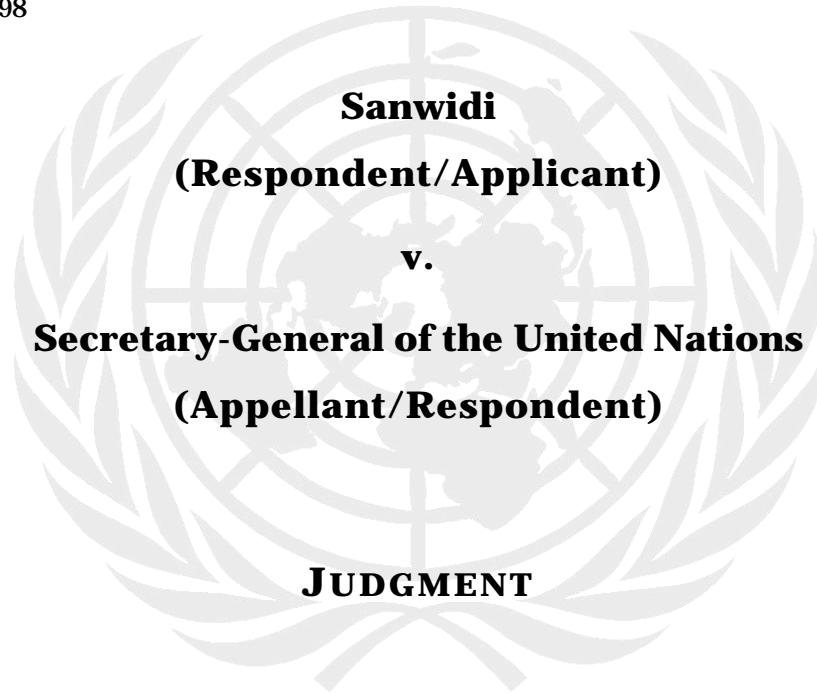




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Case No. 2010-098



Before: Judge Inés Weinberg de Roca, Presiding
Judge Sophia Adinyira
Judge Kamaljit Singh Garewal

Judgment No.: 2011-UNAT-104

Date: 11 March 2011

Registrar: Weicheng Lin

Counsel for Respondent/Applicant: Edwin P. Nhliziyo

Counsel for Appellant/Respondent: John Stompor

JUDGE INÉS WEINBERG DE ROCA, Presiding.

Synopsis

1. The Appeals Tribunal overturned the Judgment on merits of the United Nations Dispute Tribunal (UNDT or Dispute Tribunal), which found in favour of Joel Sanwidi (Sanwidi). The Dispute Tribunal's Judgment on compensation was automatically vacated when this Tribunal overturned the Judgment on merits. The appeal is therefore moot.

Facts and Procedure

2. Sanwidi was a staff member of the United Nations Organization Mission in the Democratic Republic of the Congo. In August 2009, Sanwidi filed an appeal against the decision to summarily dismiss him for serious misconduct.

3. The Dispute Tribunal issued Judgment No. UNDT/2010/036, dated 1 March 2010, in which it found that Sanwidi's actions did not amount to serious misconduct or any misconduct deserving summary dismissal (Judgment on merits). The Dispute Tribunal directed the parties to provide submissions regarding the appropriate relief to be ordered.

4. On 12 April 2010, the Dispute Tribunal issued Judgment No. UNDT/2010/061 on compensation (Judgment on compensation). The Dispute Tribunal ordered: rescission of the decision to summarily dismiss Sanwidi; reinstatement of Sanwidi; payment of lost earnings plus interest, less a monthly deduction; service of a written reprimand on Sanwidi to be placed in his official status file; and, in the event that the Secretary-General elected not to reinstate Sanwidi, compensation of two years' net base salary, plus interest.

5. The Secretary-General appealed against the Judgment on merits on 16 April 2010. On 27 May 2010, the Secretary-General filed a separate appeal against the Judgment on compensation.

6. On 27 October 2010, the Appeals Tribunal pronounced its Judgment on the appeal against the Judgment on merits.¹ This Tribunal set aside the Judgment on merits and affirmed the decision of the Secretary-General to summarily dismiss Sanwidi.

¹ *Sanwidi v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-084.

Considerations

7. In an earlier Judgment, this Tribunal overturned the Dispute Tribunal's Judgment on merits, which found in favour of Sanwidi. For this reason the foundation for an award of compensation no longer exists and the appeal of the Secretary-General against the Dispute Tribunal's Judgment on compensation is thus rendered moot. The Judgment on compensation was automatically vacated when this Tribunal overturned the Judgment on merits.

Judgment

8. For the foregoing reasons, the Dispute Tribunal's Judgment on compensation is vacated.

Original and Authoritative Version: English

Dated this 11th day of March 2011 in New York, United States.

(Signed)

Judge Weinberg de Roca,
Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Garewal

Entered in the Register on this 19th day of April 2011 in New York, United States.

(Signed)

Weicheng Lin, Registrar