UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2013-UNAT-317

El Khatib

(Applicant)

v.

Commissioner-General
of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East

(Respondent)

JUDGMENT ON APPLICATION FOR REVISION

Before:	Judge Luis María Simón, Presiding Judge Inés Weinberg de Roca Judge Mary Faherty
Case No.:	2010-139
Date:	28 March 2013
Registrar:	Weicheng Lin

Counsel for Applicant:	Self-represented
Counsel for Respondent:	M. Thomas Markushewski

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an application for revision of Judgment No. 2011-UNAT-142, *El Khatib v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, which was rendered on 8 July 2011. Mr. Yahya Ramadan El Khatib filed his application on 11 November 2011, and the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) filed his comments on 16 December 2011.

Facts and Procedure

2. In November 2005, Mr. El Khatib challenged before the UNRWA Area Staff Joint Appeals Board (JAB) the abolition of his post of Deputy Field Engineering and Construction Services Officer and the delay in payment of his annual salary increments. The Commissioner-General did not follow the JAB recommendations to award compensation but found that Mr. El Khatib had been fairly treated in the course of the restructuring of his department.

3. Mr. El Khatib appealed the Commissioner-General's decision. In its Judgment No. 2011-UNAT-142, this Court first considered that the Administration had discretion to reorganize its services. However, the Appeals Tribunal overturned the contested decision. Relying on the JAB report and having considered several circumstances in favor of Mr. El Khatib, the Appeals Tribunal held that he had not been properly treated and awarded him compensation in the amount of three months' net base salary.

4. Mr. El Khatib now seeks revision of the Appeals Tribunal Judgment.

Submissions

Mr. El Khatib

5. Mr. El Khatib submits that, in its determination of the award of compensation, the Appeals Tribunal failed to take into consideration several facts, such as the delay in completion of his performance reports.

6. Mr. El Khatib requests that the Appeals Tribunal examine several proffered documents which allegedly demonstrate that his former supervisor was responsible for their deteriorating relationship. He further requests that the Appeals Tribunal review documents relating to the reasons for the restructuring of the department and the selection procedures for a newly-created higher level position.

Commissioner-General

7. The Commissioner-General submits that the application for revision of the compensation awarded by the Appeals Tribunal to Mr. El Khatib falls outside the permitted scope of revision by the Tribunal.

8. In the alternative, the Commissioner-General contends that Mr. El Khatib does not introduce any new fact unknown to him at the time the Judgment was rendered. The additional facts he now brings must be rejected by this Tribunal because they were not part of the original appeal.

Considerations

9. Applications for revision of judgments are governed by Article 11(1) of the Statute and Article 24 of the Rules of Procedure of the Appeals Tribunal. By these provisions, an applicant must show or identify the decisive facts that, at the time of the Appeals Tribunal Judgment, were unknown to both the Appeals Tribunal and the party applying for revision; that such ignorance was not due to the negligence of the applicant; and, that the facts identified would have been decisive in reaching the decision.[1]

[1] *Macharia v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-128, at para. 7.

10. This Court held, in *Beaudry*,[2] that any application which, in fact, seeks review of a final judgment rendered by the Appeals Tribunal can, irrespective of its title, only succeed if it fulfills the strict and exceptional criteria established by Article 11 of the Statute.

11. In the present case, the applicant does not identify any fact unknown at the time of the impugned Judgment which could justify its review. What he actually seeks is a discussion of the amount of compensation awarded to him. This is a possibility not granted by the Statute; the petition does not fulfill its requirements and must, therefore, be dismissed.

Judgment

12. This Tribunal dismisses the application for revision of its Judgment No. 2011-UNAT-142.

[2] *Beaudry v. Secretary-General of the United Nations*. Judgment No. 2011-UNAT-129.

Original and Authoritative Version: English

Dated this 28th day of March 2013 in New York, United States.

(*Signed*)	(*Signed*)	(*Signed*)
Judge Simón, Presiding	Judge Weinberg de Roca	Judge Faherty

Entered in the Register on this 19th day of April 2013 in New York, United States.

(*Signed*)

Weicheng Lin, Registrar