



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

Judgment No. 2018-UNAT-845

**Awe
(Applicant)**

v.

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

**JUDGMENT ON APPLICATION FOR CORRECTION
OF JUDGMENT**

Before:	Judge Martha Halfeld, Presiding Judge Richard Lussick Judge Deborah Thomas-Felix
Case No.:	2017-1132
Date:	29 June 2018
Registrar:	Weicheng Lin

Counsel for Mr. Awe:	Self-represented
Counsel for Secretary-General:	Rupa Mitra

JUDGE MARTHA HALFELD, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an application for correction of Judgment No. 2017-UNAT-774 rendered by the Appeals Tribunal on 14 July 2017. Mr. Ekundayo Awe filed his application on 23 November 2017 and the Secretary-General submitted his comments on 8 January 2018.

Facts and Procedure

2. On 18 November 2016, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Nairobi issued Judgment No. UNDT/2016/206 in the case of *Awe v. Secretary-General of the United Nations*. The Secretary-General appealed the UNDT Judgment on 17 January 2017 on the grounds that the UNDT erred in law by requiring the Special Representative of the Secretary-General to refer for disciplinary action the case of the Chief of Staff (COS) of the United Nations Assistance Mission for Iraq (UNAMI) to the Assistant Secretary-General, Office of Human Resources Management, and by awarding Mr. Awe USD 3,000 as compensation for the lack of such a referral. The Secretary-General submitted that the UNDT also erred in law by ruling that the contents of the minutes of the Senior Management Team (SMT) meeting held at UNAMI on 22 January 2014 had to be retracted in order to fully address Mr. Awe's complaint and by awarding USD 15,000 for "stress and moral injury" allegedly caused by the offending remarks in the SMT meeting minutes.

3. In Judgment No. 2017-UNAT-774, the Appeals Tribunal held that the UNDT did not err in ordering the removal of the offending references to Mr. Awe in the SMT meeting minutes and informing all recipients of those minutes of the findings of the Fact-Finding Panel (FFP). At the same time, the Appeals Tribunal reduced the amount of compensation that the UNDT had awarded Mr. Awe from USD 15,000 to USD 5,000. The Appeals Tribunal vacated the UNDT's award of compensation for the lack of a referral of the COS for disciplinary proceedings.

4. On 1 October 2017, Mr. Awe filed an application for interpretation of Judgment No. 2017-UNAT-774, which the Appeals Tribunal disposed of by Judgment No. 2018-UNAT-827 rendered on 22 March 2018.

5. On 23 November 2017, Mr. Awe submitted the present application for correction of Judgment No. 2017-UNAT-774 and the Secretary-General filed his comments on 8 January 2018.

Submissions

Mr. Awe's Application

6. Mr. Awe seeks a correction of paragraph 2 of the Appeals Tribunal Judgment, which he contends incorrectly reflects that at the SMT meeting at issue in the Appeals Tribunal Judgment, the COS indicated that he intended to convince the Special Representative of the Secretary-General to withdraw Mr. Awe from UNAMI while the meeting minutes reflect that it was the Chief of Mission Support (CMS) who made that comment. The Report of the FFP also confirms that the CMS and not the COS was complicit in trying to have Mr. Awe removed from UNAMI.

7. Mr. Awe seeks a further correction of paragraph 2 (at page 4), which he contends incorrectly reflects that he was reassigned to the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), while in reality, he was assigned to the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).

The Secretary-General's Comments

8. The Secretary-General contends that the sentence that Mr. Awe refers to in paragraph 2 of the Judgment is a quote from the factual findings recorded in the underlying UNDT judgment. Thus, Mr. Awe could have and should have addressed any inaccuracies in his appeal to the Appeals Tribunal. Moreover, Mr. Awe's place of reassignment has no bearing on the substance of any of the issues he raised before the Appeals Tribunal or the UNDT.

9. There is no basis for the Appeals Tribunal to find that the two sentences referred to by Mr. Awe constitute clerical or accidental errors that would require the Appeals Tribunal to issue a corrected judgment. The Secretary-General requests that the Appeals Tribunal reject the application in its entirety.

Considerations

10. Applications for correction of judgment of the Appeals Tribunal are governed by Article 11(2) of the Appeals Tribunal Statute (Statute) and Article 26 of the Rules of Procedure of the Appeals Tribunal (Rules).

11. Article 11(2) of the Statute reads as follows: “Clerical or arithmetical mistakes, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Appeals Tribunal, either on its own motion or on the application of any of the parties.” Article 26 of the Rules provides in nearly identical terms: “Clerical or arithmetical mistakes, or errors arising from any accidental slip or omission, may at any time be corrected by the Appeals Tribunal, either on its own initiative or on the application by any of the parties on a prescribed form.”

12. The Appeals Tribunal rendered Judgment No. 2017-UNAT-774 by which it, *inter alia*, reduced the amount of compensation awarded to USD 5,000 and affirmed the UNDT’s order to remove the offending references in the minutes and to write to all recipients to inform them of the FFP’s findings.

13. Mr. Awe now claims that there is a mistake in paragraph 2 of the Appeals Tribunal Judgment which, he contends, erroneously refers to the COS instead of the CMS. He also contends that on page 4 of the same Judgment, the reference to MINUSCA is erroneous since the correct mission he was reassigned to was MINUSMA.

14. We do not share Mr. Awe’s views, for two main reasons. Firstly, in paragraph 2, under “Facts and Procedure” of its Judgment,¹ the Appeals Tribunal quoted paragraphs 2 and 12 to 51 of the UNDT judgment. Paragraph 2 of our Judgment thus merely quoted the facts “as found by the Dispute Tribunal”, with footnote reference to the paragraphs quoted from the UNDT judgment.² The Secretary-General is correct in arguing that Mr. Awe could have and should have addressed any inaccuracies at the time of his initial appeal. In failing to do so, Mr. Awe is now estopped from alleging inaccuracies in the UNDT judgment.

15. Secondly, the modification or correction of the alleged mistakes that Mr. Awe now raises for the first time in his application for correction would not have any bearing on the outcome of the Judgment. They were only mentioned as a report of the facts and procedural background of the Judgment, neither in the considerations nor in the conclusion. This renders any correction unnecessary.

¹ *Awe v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-774, pages 2-6.

² *Awe v. Secretary-General of the United Nations*, Judgment No. UNDT/2016/206, paras. 2 and 12-51.

16. As we stated in *Fedorchenko*,³

... An application seeking review of a final judgment rendered by the Appeals Tribunal “can only succeed if it fulfils the strict and exceptional criteria established under Article 11 of its Statute”. Mr. Fedorchenko’s applications do not come within the criteria set forth in these statutory provisions.

17. In view of the foregoing, we agree with the Secretary-General that there is no basis for the Appeals Tribunal to find that the two sentences referred to by Mr. Awe constitute clerical or accidental errors that would require the Appeals Tribunal to issue a correction of judgment.

18. Mr. Awe is in error in applying to the Appeals Tribunal for correction of its Judgment.

19. The application fails.

³ *Fedorchenko v. Secretary General of the International Civil Aviation Organization*, Judgment No. 2015-UNAT-567, para. 13 (internal footnote omitted), citing *Chaaban v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2015-UNAT-497, para. 19, in turn citing *Al-Mulla v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-394, para. 14.

Judgment

20. The application is dismissed.

Original and Authoritative Version: English

Dated this 29th day of June 2018 in New York, United States.

(Signed)

Judge Halfeld, Presiding

(Signed)

Judge Lussick

(Signed)

Judge Thomas-Felix

Entered in the Register on this 10th day of August 2018 in New York, United States.

(Signed)

Weicheng Lin, Registrar