UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2019-UNAT-962

Amineddine

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

JUDGMENT

Before:	Judge Kanwaldeep Sandhu, Presiding Judge Dimitrios Raikos Judge Martha Halfeld
Case No.:	2019-1261
Date:	25 October 2019
Registrar:	Weicheng Lin

Counsel for Mr. Amineddine:	Self-represented
Counsel for Secretary-General:	Maryam Kamali

JUDGE KANWALDEEP SANDHU, PRESIDING.

Introduction

1. The Appellant is currently a Field Language Assistant with the United Nations Truce Supervision Organization (UNTSO). He joined the United Nations Interim Force in Lebanon (UNIFIL) as a Language Assistant on 10 July 2009. In 2016, he unsuccessfully applied for two positions in UNIFIL advertised as Job Openings (JO)s 2016/38 and 2016/026. In October 2017, the Appellant unsuccessfully applied for a third position, JO 87684 (Information Technology Assistant, G-5). He challenged his non-selection for these three posts to the Management Evaluation Unit (MEU), which held that his applications for JOs 2016/38 and 2016/026 were time barred and not receivable, and that his application for JO 87684 had received full and fair consideration with no indication of procedural irregularity or unfair treatment.

2. He contested his non-selections to the United Nations Dispute Tribunal (UNDT or Dispute Tribunal). The Dispute Tribunal held that the Appellant's applications to review his three non-selections were not receivable.[1] On 20 May 2019, the Appellant appealed to the United Nations Appeals Tribunal (Appeals Tribunal) and says the Dispute Tribunal's Judgment should be vacated and the matter remanded for hearing before a different Registry and a different judge. The Secretary-General requests the appeal be dismissed.

Legislative Mandate

3. Article 2(1) of the Statute of the Appeals Tribunal (the Statute) provides that the Appeals Tribunal is competent to hear and pass judgment on an appeal of the Dispute Tribunal's judgment in which it is asserted that the Dispute Tribunal:

a) Exceeded its jurisdiction or competence;

b) Failed to exercise jurisdiction vested in it;

c) Erred on a question of law;

d) Committed an error of procedure, such as to affect the decision of the case; or

e) Erred on a question of fact, resulting in a manifestly unreasonable decision.

[1] *Amineddine v. Secretary-General of the United Nations,* Judgment No. UNDT/2019/043.

The Appellant has the burden of asserting and proving that the Dispute Tribunal committed these defects in its Judgment and the function of the Appeals Tribunal on an appeal is not to re-try the case or make its own findings of fact. [2]

4. In cases of receivability, the relevant legal framework is set-out in Article 8(1) of the Dispute Tribunal's Statute and Staff Rule 11.2 of the Staff Rules and Regulations which provides that the first step for a staff member formally contesting an administrative decision is to submit to the Secretary-General a written request for a management evaluation of the administrative decision. The Staff Rule requires that the request for the management evaluation must be submitted within 60 days from notification of the administrative decision. Article 8 of the Dispute Tribunal Statute provides that an application to the Dispute Tribunal is receivable if an applicant has submitted the contested administrative decision for management evaluation, where required, and the application to the Dispute Tribunal is filed within 90 days from either the receipt of the MEU decision or, if there is no MEU response, the expiry of the response period.

Issues

5. The issues in the appeal are as follows:

i) Did the Dispute Tribunal err when it held that the Appellant's application contesting his non-selection for JOs 2016/038 and 2016/026 was not receivable as he did not file the request to the MEU within the 60 day deadline required by Staff Rule 11.2 of the Staff Rules?

ii) Did the Dispute Tribunal err when it held that the Appellant's application contesting his non-selection for JO 87684 was not receivable as he failed to file an application to the Dispute Tribunal within the 90-day deadline required by Article 8(1) of the Dispute Tribunal Statute?

[2] See *Chrichlow v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-035.

Procedural Issues

6. The Appellant also raises several procedural or interlocutory matters in his appeal.

i) Oral Hearing

7. The Appellant requests an oral hearing before the Appeals Tribunal in order to call witnesses, including Ms. JS and the UNIFIL Chief of Human Resources, to question them "while looking them in the eye in front of the court judges" and to explain the evidence. We deny this request.

8. Article 18(1) of the Appeals Tribunal's Rules of Procedure provides that "judges hearing a case may hold oral hearings on the written application of a party or on their own initiative *if it* would assist in the expeditious and fair disposal of the case".[3] We find that an oral hearing would not assist in the "expeditious and fair disposal of the case" as the facts are uncontradicted and not in dispute. We will not re-try the case or hold hearings for the purposes of fact finding. The issues, here, are of jurisdiction and receivability and do not require oral testimony and argument for the fair disposal of the appeal.[4]

ii) Order for Production of Documents

9. The Appellant also requests an order for production of documents to review the MEU decision including reports from the Office of Internal Oversight Services (OIOS) regarding the recruitment and appointment process in UNIFIL. We deny this request.

10. Article 10 of the Appeals Tribunal's Rules of Procedure provides that the Appeals Tribunal, on its own volition, may order the production of evidence if, "it is in the interest of justice and the efficient and expeditious resolution of the case". As indicated above, we are not re-trying the case but reviewing whether the Dispute Tribunal's Judgment contains errors of jurisdiction, fact, law or procedure as outlined by Article 2(1) of the Statute. The Appellant's request for production is not necessary for this purpose. Finally, the evidence on

[3] Emphasis added.
[4] See *Musleh v. Commissioner-General of UNRWA*, Judgment No. 2015-UNAT-596; *Omar v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-264; *Shakir v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-056.

the recruitment and selection processes of UNIFIL is not relevant to the issue of before us, which is receivability and not the merits of the Appellant's case.

iii) A Judgment in Arabic

11. As for the Appellant's request for an Arabic translation of the Appeals Tribunal's Judgment in this matter, as required by Article 19(5) of the Appeals Tribunal's Rules of Procedure, when a party files a submission, or requests a copy, in one of the six official United Nations languages, the Registry will either issue the Judgment in that language or have it translated. Therefore, the Registry will provide the Arabic translation of this Judgment.

iv) In-Session Motion

12. On 21 October 2019, the Appellant filed a motion with the Appeals Tribunal titled "production of evidence". In the written application, he requests an "extension of time at least two weeks to correct the references in [the) appeal brief, some of the exceptional reasons for [the] request are stated below. Otherwise (he) pray[s] th[is] [T]ribunal to allow [him] to appoint a counsel." As the Appellant indicated that "some" of the exceptional reasons were stated, the Appeals Tribunal invited him to complete those reasons and invited the Secretary-General's response to the motion.

13. This is a veiled motion for additional pleadings and a request for adjournment. He requests a "waiver" to submit his seven-page motion. In light of the denial of his earlier request for an oral hearing, he applies for an order for production of documents to show that UNIFIL allowed discrimination against the Druze and that he was made to work extended hours and late at night. He makes a number of allegations that speak to the merits of his application rather than the issue of whether the Dispute Tribunal erred in deciding his application was not receivable, including:

a) The delays from the Office of the Ombudsman in his communications with them;

b) The duty of the MEU to not ignore his e-mail regarding mediation with the Ombudsman;

c) Exposure of the work and reports of the OIOS;

d) The MEU's failure to see the interview panel consisted of people "whose conduct has been seriously criticized" and ignored the manipulation of test results;

e) Druze underrepresentation and discrimination;

f) Whistle blower protections;

g) The obligation of the Secretary-General under General Assembly resolution 63/253; and

h) The Secretary-General's "trust deficit".

14. Article 31(1) of the Appeals Tribunal's Rules of Procedure allows additional pleadings "in exceptional circumstances". For adjournment applications, an adjournment has only been granted on an "exceptional basis".[5]

15. Article 18*bis* of our Rules of Procedure provides that the "President may, at any time, either on a motion of a party or on his or her own volition, issue any order which appears to be appropriate for the fair and expeditious management of the case and to do justice to the parties".

16. These provisions and jurisprudence speak of "exceptional" reasons and consideration of the prejudice to the Secretary-General in granting the motion as well as what is the fair and expeditious management of the case and justice to the parties. The Appellant has filed the motion late in the process. The Secretary-General filed his answer on 1 August 2019. The Appeals Tribunal advised the Appellant of the denial of his request for an oral hearing in September 2019. He was also aware that the appeal had been scheduled for an oral pronouncement to take place on 25 October 2019. Despite this, the Appellant waited until the last moment to file this motion. He has failed to provide a reason for the late motion and for seeking to obtain counsel at such a late stage of the proceedings. We cannot find "exceptional circumstances" here. Rather, granting an adjournment during deliberations and on the verge of pronouncing judgment would undermine the fair and expeditious management of the appeal.

[5] *Harris v. Secretary-General of the United Nations*, Order No. 324 (2018).

17. Also, the Secretary-General would be prejudiced in having to expend further resources on the matter. In balancing the prejudice to the process and the Secretary-General, we must also balance any benefit to the Appellant's case with the prejudice to the other party as well as the interest of justice in allowing the adjournment. The Appellant requests the adjournment for the purpose of providing further evidence and support. However, a review of the Appellant's submissions in support of the motion leads us to conclude that it is unlikely that the Appellant would provide evidence that could be relevant and material to the issue before us, which is whether the application is receivable. Rather, the Appellant seeks to re-argue and re-try the merits of his application to the Dispute Tribunal.

18. As a result, we deny the Appellant's in-session motion.

Facts and Procedure

19. The facts in this appeal are largely uncontested.[6]

20. After his applications for the three job postings, the Director of Mission Support responded on 19 December 2017 informing the Appellant of his unsuccessful candidacy for JOs 2016/38 and 2016/026. On 27 April 2018, the Appellant was informed of his unsuccessful candidacy for JO 87684. There is no dispute that these are the administrative decisions under appeal.

21. On 26 June 2018, Mr. Amineddine requested management evaluation of the decisions not to select him for the three positions. The MEU responded by memorandum dated 16 October 2018 but e-mailed to the Appellant on 17 October 2018 and declined to intervene.

22. On 10 December 2018, Mr. Amineddine wrote to one Dr. HM requesting that he write to the UNIFIL Head of Mission, on his behalf, for a waiver of the deadline for management evaluation for JOs 2016/038 and 2016/026. Dr. HM informed him on 15 December 2018 that he had moved and provided Mr. Amineddine with the contact information for the Office of the Ombudsman and Mediation Services (UNOMS).

[6] Impugned Judgment, paras. 9-20.

23. The Appellant then wrote to the UNIFIL Head of Mission on 24 December 2018 to request a waiver of the deadline for management evaluation for JOs 2016/038 and 2016/026. The UNIFIL Head of Mission informed him on 14 January 2019 that he did not have the authority to waive or extend management evaluation deadlines. The UNIFIL Head of Mission advised him to write to the MEU.

24. On 15 January 2019 and 19 February 2019, the Appellant e-mailed UNOMS seeking assistance to mediate his claims.

25. On 15 January 2019, the Appellant requested an extension of time to file his application to the Dispute Tribunal with regard to his non-selections. On 6 February 2019, the Dispute Tribunal granted the extension to 20 February 2019 to file and complete his application. On 20 February 2019, Mr. Amineddine filed his application with the Dispute Tribunal contesting his non- selections.

26. In its Judgment No. UNDT/2019/043, the Dispute Tribunal dismissed the Appellant's applications as they were not receivable for different reasons. Regarding the non-selection for JOs 2016/038 and 2016/026, the Dispute Tribunal held that the application was not receivable *ratione materiae* because he had not filed a timely request for management evaluation as required by Staff Rules 11.2(a) and (c). The fact that he erroneously sought a waiver of the management evaluation deadline *ex post facto* six months later did not change his deadline.

27. With regard to JO 87684, the Dispute Tribunal found that the Appellant had requested a management evaluation by the deadline, however, he had not filed his application before the Dispute Tribunal in a timely manner. While the MEU responded later than its due date, the Appellant was still within his 90-day deadline to file an application to the Dispute Tribunal by 15 January 2019. On 15 January 2019, however, he requested an extension of time citing mediation efforts and provided an e-mail dated that same day asking UNOMS for assistance. He had not, however, provided documentation showing that he and UNIFIL were in mediation within the deadline for filing his application. In the absence of documentary evidence from UNOMS indicating that he was engaged in informal dispute resolution and in the absence of showing exceptional circumstances beyond his control, the Dispute Tribunal reversed its interlocutory decision extending his time to file his application.

As a result, the Dispute Tribunal found his application regarding JO 87684 was not receivable.

Submissions

The Appellant's Appeal

28. The Appellant asks the Appeals Tribunal to vacate the Dispute Tribunal Judgment and remand the case before a different judge to review the merits. He also requests the entire documentary record before the Dispute Tribunal be considered by the Appeals Tribunal and the Appeals Tribunal order any compensation awarded to accrue interest at the Lebanese prime rate.

29. He argues that he had requested UNIFIL and UNOMS grant him an extension to the deadline for filing a management evaluation request. The Dispute Tribunal exceeded its jurisdiction by reversing its initial extension of time to complete his application to the Dispute Tribunal (Order 008, NBI/2019) and that the Dispute Tribunal failed to exercise its jurisdiction in completely ignoring his application. He also argues that the Dispute Tribunal erred on a question of law by merely relying on the findings of the MEU. The Dispute Tribunal also erred in procedure since the Secretary-General in his motion of 16 March 2019 claimed only two of the three cases were not receivable and thus, the Secretary-General agreed that the third case was receivable.

30. The Appellant also submits that the Dispute Tribunal Judge erred on a number of findings of fact resulting in a manifestly unreasonable decision. Amongst other things, he says the Dispute Tribunal only based its decision on the Respondent's pleading and clearly sided with UNIFIL. The Dispute Tribunal committed arithmetic errors in the calculation of the time limits. Per the Dispute Tribunal's Rules of Procedure Article 34, the time limits refer to calendar days and do not include the day of the event from which the period runs, meaning his deadline to "seek judicial review" was 16 January 2019 for his cases. The Dispute Tribunal erred in fact at paragraph 12 of the Judgment where it indicated he would withdraw his cases if selected to a G-5 or higher position by means of outside of the normal process, when he did not exclusively limit this to outside the normal process as there are several instances within the Staff Rules allowing for an exception to place him in a post. The Dispute Tribunal erred in considering his application submitted on 15 January 2019 and resent on 16 January 2019 as a motion for extension of time. The Dispute Tribunal ignored communications with the Registry's electronic

filing technical support which evidenced he had technical difficulties electronically filing his application.

31. He also says the Dispute Tribunal failed to consider written evidence about the UNOMS' involvement. The three cases were submitted to the MEU for review in one request because they were mediated together. He sent requests to three different UNOMS staff members on 24 December 2018, but the Dispute Tribunal only considered his follow-up e-mail of 15 January 2019. His case should not be dismissed because of UNOMS' slow responsiveness. The mediation with UNOMS was in engagement until 10 December 2018. Per the Appeals Tribunal's jurisprudence in *Wu*,[7] his deadline started to run from the meeting that was proposed by Mr. Murad of UNOMS with UNIFIL DMS. He argues that his deadline to file an application should have been 19 February 2018 because he did not receive notice of the decision until 19 December 2017.

The Secretary-General's Answer

32. The Secretary-General requests the Appeals Tribunal to affirm the Judgment of the Dispute Tribunal and dismiss the appeal in its entirety. The Secretary-General argues that the Dispute Tribunal correctly found the application not receivable. Requesting a timely management evaluation is a mandatory first step in the appeal process. The Staff Regulations and Rules (ST/SGB/2018/1) require the request for management evaluation within "60 calendar days from the date on which the staff member received notification of the administrative decision to be contested" (Rule 11.2(a) and (c)). The Dispute Tribunal held the Appellant should have requested a management evaluation of the non-selection for JOs 2016/026 and 2016/038 by 17 February 2018. The Appellant incorrectly asserts he did not receive notification on 19 December 2017; however, this is inconsistent with the evidence. He also received an e-mail of 22 December 2017 informing him of the decision. At latest, he knew of the non-selection by 19 February 2018 when he e-mailed UNOMS referring to his non-selection. Even if counted from this later date, he filed a request for management evaluation out of time. He claim that he had requested a management evaluation late because he was trying to mediate the three cases together. However, he has not submitted adequate evidence of mediation. UNIFIL and the Appellant never agreed to mediate nor did UNIFIL ever participate in a

[7] *Wu v. Secretary-General of the United Nations,* Judgment No. 2013-UNAT-306/Corr.1.

mediation. Per the *Ngoga* case, the Appeals Tribunal has ruled that "a mere request for assistance from the Ombudsman's Office is not sufficient in this regard".[8]

33. The Dispute Tribunal also correctly found the application was not receivable regarding JO 87684. The Dispute Tribunal initially granted an extension of time, however, upon closer review, it correctly rescinded the extension as there were no evidence to support that the extension was warranted by exceptional circumstances that were beyond the Appellant's control. The Appellant's original reason for requesting the extension was to "concentrate on genuinely trying to find a mediation solution under the auspices of the ombudsman". However, the only evidence was copies of e-mails sent requesting mediation. The Appellant failed to show that he and UNIFIL were actually in mediation within the deadlines for filing his application. He also failed to show any circumstances beyond his control. The Appellant failed to show that he and UNIFIL were in mediation within the deadlines for filing his application. Article 8(1)(d)(iv) of the Dispute Tribunal's Statute provides that an application is receivable "(w)here the parties have sought mediation of their dispute within the deadlines for filing of an application ... but did not reach an agreement, the application is filed within 90 calendar days after the mediation has broken down in accordance with the procedures laid down in the terms of reference of the Mediation Division". The Respondent says an expressed interest in mediation does not satisfy this provision.

34. The Dispute Tribunal did not exceed its jurisdiction by reversing its initial decision to extend the time to file his application as the Dispute Tribunal is competent to review its own competence or jurisdiction in accordance with Article 2(6) of its Statute, which the Appeals Tribunal has affirmed, may be done *sua sponte*. The Respondent submits that it is appropriate for the Dispute Tribunal to consider whether it has jurisdiction before considering the merits of an application.

35. Finally, the Respondent says the Appellant focuses on the merits of his case and raises general and unsubstantiated allegations of discrimination and bias against him and has failed to identify any excess or failure of jurisdiction, errors of law, material errors of fact, or errors of procedure of the Dispute Tribunal.

[8] *Ngoga v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-823, para. 36.

Considerations

36. Regarding JOs 2016/038 and 2016/026, we find, based on the reasons below, the Dispute Tribunal did not err in finding that the Appellant's application was out of time and not receivable pursuant to Staff Rule 11.2.

37. Regarding JO 87684, we find, based on the reasons below, the Dispute Tribunal erred in finding the application was not receivable and we remand this application back to the Dispute Tribunal.

I. The Appellant's Application Re: JOs 2016/038 and JO 2016/026

38. The Dispute Tribunal found that the application regarding JO 2016/038 and JO 2016/026 was not receivable *ratione materiae* because he did not file a timely request for management evaluation as required by Staff Rules 11.2(a) and (c).

39. Article 2(1) of the Dispute Tribunal's Statute confers jurisdiction on that Tribunal to hear applications appealing administrative decisions. An application "is only receivable when a staff member has previously submitted the impugned administrative decision for management evaluation and the application is filed within the specified deadlines".[9] The Dispute Tribunal shall not suspend or waive the deadlines for management evaluation per Article 8(3) of its Statute.

40. The deadlines are provided in Staff Rule 11.2 (c):

> A request for a management evaluation shall not be receivable by the Secretary-General unless it is sent within sixty calendar days from the date on which the staff member received notification of the administrative decision to be contested. This deadline may be extended by the Secretary-General pending efforts for informal resolution conducted by the Office of the Ombudsman, under conditions specified by the Secretary-General.

[9] See *Costa v. Secretary-General of the United Nations,* Judgment No. 2010-UNAT-036; *Kasmani v. Secretary-General of the United Nations,* Judgment No. 2010-UNAT-011; *Onana v. Secretary-General of the United Nations,* Judgment No. 2010-UNAT-008; *Tadonki v. Secretary-General of the United Nations,* Judgment No. 2010-UNAT-005.

41. The Dispute Tribunal found that, on 19 December 2017, the Appellant was notified of the administrative decision in dispute, namely that he would not be selected for either of these postings as he had failed the technical tests. He had 60 days from 19 December 2017 or until 17 February 2018 to submit a request for management evaluation. The Appellant waited until 26 June 2018 to submit his request for management evaluation, almost four months after the 60-day deadline. He contends he did not receive the letter on 19 December 2017. Even if we accept that he did not, he acknowledged receipt of his non-selection to these posts in an e-mail to UNOMS on 19 February 2018. Therefore, this is the latest date that he was aware of the non-selection decisions. If we use the February 2018 date as the date of notification, his request for management evaluation is still out of time as he requested the management evaluation in June 2018. The application is clearly time-barred by Staff Rule 11.2 and Article 8 of the Dispute Tribunal Statute.

42. The Appellant argues that on 10 December 2018, he requested a deadline waiver from UNIFIL but the UNIFIL Head of Mission confirmed that he did not have the authority to waive or extend management evaluation deadlines particularly six months after he submitted his request for the management evaluation in June 2018.

43. He also says that his request to UNOMS for assistance reset the deadlines as he was seeking informal resolution under the Office of the Ombudsman and relies on *Wu*. However, the Appeals Tribunal in *Wu* clearly held that:[10]

> [...] there is absolutely no legal authority for the UNDT to commence the running of the sixty-day limitation period from the end of the Ombudsman's settlement negotiations, rather than from "the date on which the staff member received notification of the administrative decision to be contested." The language of Staff Rule 11.2(c) is clear. Moreover, for the UNDT to commence the running of the sixty-day period in a manner inconsistent with Staff Rule 11.2(c) violates the statutory prohibition in Article 8(3) against the UNDT suspending or waiving the deadline for seeking management evaluation.

44. Only the Secretary-General has the discretion to extend the deadline for management evaluation. Staff Rule 11.2(c) gives the Secretary-General discretion to extend the 60-day deadline pending efforts for informal resolution conducted by UNOMS and under conditions specified by the Secretary-General. In the present case, there is no evidence the

[10] *Wu v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-306/Corr.1., para. 26.

Secretary-General expressly extended the management evaluation deadline or specified conditions for extending it. Nor is there evidence of an implied extension as referenced by the Appeals Tribunal in *Wu* where it noted that it is "arguably not unreasonable" for the Dispute Tribunal to infer that the Ombudsman's participation in those settlement negotiations amounted to the Secretary-General's implicit extension of the management evaluation deadline for the period of the negotiations. However, in *Ngoga*,[11] the Appeals Tribunal clarified that *Wu* did *not* establish a general principle that the Secretary-General's participation in settlement negotiations through UNOMS amounts to an implicit extension of the time limits to seek management evaluation.

45. In this instance, there were no settlement negotiations or mediation process conducted by UNOMS. The Appellant had made requests to UNOMS for assistance but there is no evidence that UNOMS commenced informal or formal mediation services. The Secretary-General did not participate in settlement discussions through UNOMS. Therefore, the circumstances here do not show an "implied" extension. The Appellant's requests for assistance from the UNOMS alone is not sufficient to extend the 60-day deadline.

46. Consequently, the Dispute Tribunal correctly held it had no jurisdiction to consider the application regarding JOs 2016/038 and JO 2016/026, as it was not receivable *ratione materiae*.

II. The Appellant's Application Re: JO 87864

47. For this JO, the Appellant submitted his request for management evaluation on 27 June 2018 within the 60-day deadline under Staff Rules 11.2(a) and (c).

48. Since the MEU's response was outside the 45 days provided for, Article 8(1)(*d*)(*i)(b*) of the Dispute Tribunal Statute provides that the deadline for the application to the Dispute Tribunal is 90 calendar days after the "expiry of the relevant response period for the management evaluation if no response to the request was provided". Here, the MEU responded on 17 October 2018, therefore, the 90 days deadline for filing to the Dispute Tribunal was 15 January 2019.

[11] *Ngoga v. Secretary-General of the United Nations*, Judgment No. 2018 UNAT 923.

49. On 15 January 2019, the Appellant sought and received an extension for filing from the Dispute Tribunal to 20 February 2019 on the basis that he "needed to concentrate on genuinely trying to find a mediated solution under the auspices of the ombudsman". The Appellant filed his application to the Dispute Tribunal by this extended deadline. However, the Dispute Tribunal subsequently reversed this extension in its Judgment on the basis that the Appellant failed to show exceptional circumstances that were beyond his control to support the extension. As a result of this reversal, the Appellant's application regarding JO 87684 was out of time and not receivable.

50. However, we find the Dispute Tribunal erred in reversing the extension that it had granted. In granting the Appellant the extension of time to file his application, the Dispute Tribunal found there were "exceptional circumstances" to do so which were set out in its Order of 6 February 2019, namely, i) the Applicant was self-represented, and, ii) he might not be conversant with the technical procedural requirements of formal litigation. The facts of the Appellant being self-represented and not conversant with formal litigation did not change.

51. In its subsequent Judgment, the Dispute Tribunal did not further consider these facts in reversing the extension but focused on the lack of mediation efforts. In its 6 February 2019 Order, the Dispute Tribunal found the Appellant's request for an additional two months to complete his application to find a mediated solution was unreasonable but granted him until 20 February 2019 to file, which he complied with. In its extension order, the Dispute Tribunal did not consider the mediation efforts in granting the extension only in the amount of time to be granted. Therefore, the Dispute Tribunal erred in subsequently finding in its Judgment that there were no mediated efforts and therefore no "exceptional circumstances" without reconsidering the findings that initially supported the extension, namely self-representation and lack of procedural knowledge. In reversing the extension, the Dispute Tribunal failed to reconsider relevant considerations relied upon in its 6 February 2019 Order.

52. In good faith, the Appellant relied on the extension and prepared and filed his application by the new deadline. It would be manifestly unreasonable to reverse the extension on different grounds to the detriment of the Appellant as it resulted in the application being time-barred and consequently, dismissed.

53. Therefore, we find the Dispute Tribunal erred in reversing the extension previously granted and, as a result, in finding the application regarding JO 87684 was time-barred.

Judgment

54. The appeal regarding JOs 2016/038 and 2016/026 in Judgment No. UNDT/2019/043 is hereby dismissed.

55. The appeal regarding JO 87684 is upheld. Judgment No. UNDT/2019/043 is hereby vacated in part. With regard to JO 87684, the matter is remanded to the Dispute Tribunal to determine the application on its merits.

Original and Authoritative Version: English

Dated this 25th day of October 2019 in New York, United States.

(Signed)	*(Signed)*	*(Signed)*
Judge Sandhu, Presiding	Judge Raikos	Judge Halfeld

Entered in the Register on this 20th day of December 2019 in New York, United States.

(Signed)

Weicheng Lin, Registrar