



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

Judgment No. 2022-UNAT-1278

**Langa Dorji
(Appellant)**

v.

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

JUDGMENT

Before:	Judge Dimitrios Raikos, Presiding Judge Graeme Colgan Judge Kanwaldeep Sandhu
Case No.:	2021-1624
Date of Decision:	28 October 2022
Date of Publication:	23 November 2022
Registrar:	Juliet Johnson

Counsel for Appellant: Self-represented

Counsel for Respondent: Patricia C. Aragonés

JUDGE DIMITRIOS RAIKOS, PRESIDING.

1. Mr. Langa Dorji, a former staff member of the United Nations Joint Staff Pension Fund (UNJSPF) in New York on a permanent appointment, contested the decision to accept his resignation. The United Nations Dispute Tribunal (UNDT or Dispute Tribunal) rejected his application as not receivable. Mr. Dorji appeals.
2. For the reasons set out below, we dismiss the appeal.

Facts and Procedure

3. Mr. Dorji joined the UNJSPF in 2001 with the Cashier Unit as a Treasury Assistant. On 4 March 2019, he submitted a letter of resignation, and separated from the service of the United Nations effective 4 April 2019.
4. On 25 June 2021, more than two years after his resignation, Mr. Dorji submitted a request for management evaluation of his “coerced/forced” resignation.
5. On 22 July 2021, the Management Evaluation Unit (MEU) rejected the request for management evaluation on the grounds that it was time-barred, as Mr. Dorji’s request had not been made within the sixty-day time frame for requesting management evaluation set forth in Staff Rule 11.2(c). The MEU also observed that, had it found Mr. Dorji’s request receivable, it would have recommended that the Administration’s acceptance of his resignation be upheld, noting that he had not provided any evidence to support his allegations of coercion.
6. On 11 August 2021, Mr. Dorji filed an application with the UNDT challenging “the 60-days time bar for [his] coerced resignation before [his] permanent contract expired”.
7. On 26 August 2021, the Secretary-General requested summary judgment on the basis that the application was not receivable *ratione materiae* on multiple grounds.
8. On 27 August 2021, by Order No. 81 (NY/2021), the UNDT decided that the matter could be adjudicated as a matter of law under Article 9 of its Rules of Procedure and suspended the deadline for the submission of a reply by the Secretary-General pending determination of the motion for summary judgment.

9. On 15 October 2021, the UNDT issued Judgment on Receivability No. UNDT/2021/120, in which it found that Mr. Dorji's application was non-receivable *ratione materiae* for failure to timely request a management evaluation. The UNDT also concluded that it did not need to address the Secretary-General's other receivability objections or hear Mr. Dorji's response thereto. Accordingly, the UNDT summarily dismissed the application.

Procedure before the Appeals Tribunal

10. On 5 November 2021, Mr. Dorji filed an appeal of the UNDT judgment with the United Nations Appeals Tribunal (Appeals Tribunal or UNAT).

11. On 21 December 2021, the Secretary-General filed his answer.

Submissions

Mr. Dorji's Appeal

12. Mr. Dorji claims that, despite being an experienced senior staff member, and being a minority (Bhutan national), he was coerced/forced to resign before his contract expired (2030). He also claims he faced daily harassment, abuses, retaliation, threats, humiliation, bullying and discrimination in the workplace by his supervisors and colleagues including clients. As a result, he had developed high blood pressure, diabetes, high cholesterol, and had undergone a colon cancer operation. The medications he was taking were all maximum doses prescribed by his doctor. He submits he was forced to the point of breakdown and being suicidal by the Chief of his Unit and the friends he had brought in to work and had undeservedly promoted in various positions at the Unit. Mr. Dorji was particularly upset by the selection of one colleague for a position at the P3 level for which he had also applied, directly from the roster of pre-approved candidates and without conducting any formal interviews. He claims he still had frequent panic attacks and sleepless nights because of these issues.

13. Mr. Dorji states that he did not challenge any administrative decision within the 60-day time limit, but harassment and discrimination against a member of a minority is a crime against humanity and a violation of fundamental freedom of human rights; there is no time limit of 60 days to file a case of this criminal nature. Mr. Dorji requests justice from the UNAT and seeks compensation in the amount of USD 2.9 million for the remaining period of his permanent

contract, damages to his health and emotional trauma, follow-up medical treatment expenses and pension.

The Secretary-General's Answer

14. The Secretary-General submits that the UNDT correctly dismissed Mr. Dorji's application as non-receivable *ratione materiae*, having found that he had failed to timely request management evaluation in accordance with Staff Rule 11.2, Article 8(3) of the UNDT Statute, and relevant UNAT case law. In the present case, Mr. Dorji's alleged "coerced resignation" purportedly occurred in March 2019 and became effective in April 2019. It is undisputed that he requested management evaluation regarding his resignation more than two years later, on 25 June 2021.

15. The Secretary-General argues that the appeal is without merit and fails to demonstrate any error warranting intervention by the UNAT.

16. First, Mr. Dorji has failed to satisfy the requirements of Article 2(1) of the UNAT Statute and the relevant UNAT case law. In the present case, he fails to identify any excess or failure of jurisdiction, errors of law, material errors of procedure or of fact. Since Mr. Dorji does not identify any of the bases for appeal enumerated in Article 2(1) of the UNAT Statute, the appeal should be dismissed in its entirety.

17. Second, Mr. Dorji has failed to establish any errors warranting reversal of the UNDT Judgment. He does not specify how or in what way that judgment is defective, but rather expresses his misguided view that no time limit applies to his case. Indeed, Mr. Dorji admits that he had not challenged any administrative decision and, notably fails to address, let alone challenge, the correctness of the UNDT's conclusion that his application was not receivable *ratione materiae* for his failure to have requested management evaluation within the 60-day deadline mandated by Staff Rule 11.2(c). Instead, Mr. Dorji simply asserts, as he did before the UNDT, that he had been harassed and emotionally traumatized due to an alleged toxic work environment at the UNJSPF, that he had been forced to resign, and that he had suffered as a result. He has simply failed to satisfy his burden of demonstrating that the UNDT Judgment is defective.

18. Third, Mr. Dorji's request for compensation for damages to his health and emotional trauma should be disregarded by the UNAT as unsubstantiated. More importantly, as the UNDT did not address the merits and, thus, did not reach the issue of compensation,

Mr. Dorji's request for compensation is not properly before the UNAT, and as such should be disregarded.

19. In addition, the Secretary-General submits that Mr. Dorji's additional evidence submitted on appeal is not properly before the UNAT and should be disregarded. In his appeal, Mr. Dorji attaches additional documentary evidence consisting of correspondence with MEU and OSLA regarding his request for management evaluation and his correspondence with J.P. Morgan (additional evidence). As the additional evidence was not part of the record before the UNDT, Mr. Dorji is required to comply with Article 2(5) of the UNAT Statute for the submission of additional evidence into the record when filing his appeal. In the present case, Mr. Dorji has neither requested leave to the UNAT to file such additional evidence, nor has he complied with the criteria set forth in Article 2(5) of the UNAT Statute for doing so, and/or with relevant UNAT case law.

20. For all the reasons set forth above, the Secretary-General requests that the UNAT uphold the UNDT Judgment and dismiss the appeal.

Considerations

21. Mr. Dorji's appeal is defective in that it fails to identify any of the five grounds of appeal set out in Article 2(1) of the Statute as forming the legal basis of his appeal. Article 2(1) of the Statute provides that:

... The Appeals Tribunal shall be competent to hear and pass judgement on an appeal filed against a judgement rendered by the United Nations Dispute Tribunal in which it is asserted that the Dispute Tribunal has:

- (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 in procedure, such as to affect the decision of the case; or
- (e) Erred on a question of fact, resulting in a manifestly unreasonable decision.

22. These provisions are supplemented by Article 8(2) of the Appeals Tribunal Rules of Procedure, which provides, in part, that: "The appeal form shall be accompanied by: (a) A brief that explains the legal basis of any of the five grounds for appeal set out in article 2(1) of the statute of the Appeals Tribunal that is relied upon".

23. It follows from the above provisions that a party appealing a judgment of the UNDT is unlikely to succeed in having the judgment reversed, modified or the case remanded to the UNDT unless the appeal challenges the impugned judgment on one or more of the grounds referred to in Article 2(1)(a) to (e) of the Statute.

24. In the present case, Mr. Dorji has failed to specifically identify the errors allegedly committed by the UNDT and therefore, the appeal is defective for that reason alone. Nowhere in his appeal brief does Mr. Dorji explain how the UNDT erred in dismissing his application, exceeded or failed to exercise its jurisdiction or competence, erred on a question of law or procedure, or erred on a question of fact, resulting in a manifestly unreasonable decision. In his appeal, Mr. Dorji does not attack the UNDT's holding on inadmissibility of his application. He does not even put forward grounds against that holding or show why the findings or reasoning of the UNDT could have been erroneous. The immaterial matters that he submits in his appeal attach to the merits of his case and not to the receivability of his application to the UNDT.

25. Even assuming, in Mr. Dorji's favour, that the allegations in his appeal brief are meant to state that the UNDT committed errors of law, the appeal must fail.

26. Under Article 8(1)(c) of the UNDT Statute, an application shall be receivable if the applicant has previously submitted the contested decision for management evaluation where required. This obligation upon the applicant is also prescribed in Staff Rule 11.2(a), which provides that a staff member wishing to formally contest an administrative decision shall, as a first step, submit to the Secretary-General in writing a request for management evaluation. Pursuant to Staff Rule 11.2(c), a request for management evaluation is to be submitted to the Secretary-General within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested.

27. It is settled case law that requesting management evaluation is a mandatory first step in the appeal process.¹ The Appeals Tribunal has noted many times that the requirement of management evaluation assures that there is an opportunity to quickly resolve a staff member's complaint or dispute without the need for judicial intervention.²

28. In the present case, as the UNDT correctly held, Mr. Dorji's alleged coerced resignation and subsequent separation from the Organization occurred in March and April 2019. Nevertheless, Mr. Dorji's request for management evaluation thereof was filed outside the 60-day statutory time limit by more than two years, on 25 June 2021. Consequently, the UNDT rightly concluded further that "regardless of how the Applicant may intend to define the contested decision, it is clear from the application and its supporting documents, as well as from his request for management evaluation, that the disputed issues date back to March and April 2019. Therefore, the Applicant missed the 60-day deadline to request management evaluation by over two years".³

29. The Appeals Tribunal has repeatedly and consistently strictly enforced the time limits for filing applications and appeals. Strict adherence to filing deadlines assures one of the goals of our new system of administration of justice: the timely hearing of cases and rendering of judgments.⁴ The UNAT has also consistently held that staff members are presumed to know the Regulations and Rules applicable to them. It is the staff member's responsibility to ensure that he or she is aware of the applicable procedure in the context of the administration of justice at the United Nations. Ignorance cannot be invoked as an excuse.⁵

¹ *Barri v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1005, para. 11; *Vukasović v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-699, para. 13; *Faye v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-654, para. 31; *Gehr v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-293, para. 27.

² *Barri* Judgment, *op. cit.*, para. 11; *Vukasović* Judgment, *op. cit.*, para. 13; *Amany v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-521, para. 17, citing *Servas v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-349, para. 22 and cites therein.

³ Impugned Judgment, paras. 12-13.

⁴ *Diab v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2015-UNAT-495, para. 25; *Kissila v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-470, para. 23.

⁵ *Vukasović* Judgment, *op. cit.*, para. 14; *Amany* Judgment, *op. cit.*, para. 18, citing *Kissila* Judgment, *op. cit.*, para. 24, and cites therein

30. We are satisfied that the Dispute Tribunal properly considered the facts and the applicable statutory law and jurisprudence in arriving at its decision that Mr. Dorji's application was not receivable.

31. In the light of the foregoing, the appeal must be dismissed.

Judgment

32. The appeal is dismissed, and Judgment No. UNDT/2021/120 is affirmed.

Original and Authoritative Version: English

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

(Signed)

Judge Raikos, Presiding

(Signed)

Judge Colgan

(Signed)

Judge Sandhu

Judgment published and entered into the Register on this 23rd day of November 2022 in New York, United States.

(Signed)

Juliet Johnson, Registrar