



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

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Judgment No. 2024-UNAT-1478

**Mohammad Saeed Almasri**

**(Applicant)**

**v.**

**Secretary-General of the United Nations**

**(Respondent)**

**JUDGMENT ON APPLICATION FOR REVISION**

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Before:	Judge Graeme Colgan Presiding Judge Leslie F. Forbang Judge Abdelmohsen Sheha
Case No.:	2023-1873
Date of Decision:	25 October 2024
Date of Publication:	14 November 2024
Registrar:	Juliet E. Johnson

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Counsel for Appellant: Self-represented

Counsel for Respondent: Noam Wiener

**JUDGE GRAEME COLGAN, PRESIDING.**

1. Mohammad Saeed Almasri applies for revision of the Judgment of the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) issued on 2 November 2023 (UNAT Judgment) in relation to the remedies granted to him upon the non-renewal of his employment with the United Nations High Commissioner for Refugees (UNHCR or Organization).<sup>1</sup> While the application for revision was made timeously, our decision depends on Mr. Almasri's compliance with the other statutory criteria for judgment revision.

2. For the reasons set out below, we refuse and dismiss Mr. Almasri's application for revision of our Judgment.

**Facts and Procedure**

3. The UNAT Judgment is self-explanatory and we will not reiterate it here. The Judgment granted the remedy sought by Mr. Almasri in response to the erroneous non-renewal of his employment—a payment equivalent to six months' net base salary. Bearing in mind that he had already received half of that amount, he was awarded the remaining three months' net base salary effectively matching what Mr. Almasri had claimed. As we noted, the remedy also included what would have been the Organization's contribution on Mr. Almasri's behalf to the United Nations Joint Staff Pension Fund (UNJSPF or the Fund) for the period of six months following the expiry of his contract.<sup>2</sup>

**Submissions**

**Mr. Almasri's Application**

4. Mr. Almasri requests that the Appeals Tribunal reconsider the UNAT Judgment as the benefits to which he was eligible from the UNJSPF were negatively impacted by the non-renewal of his Fixed-Term Appointment on 31 December 2020.

5. Mr. Almasri argues that, based on the estimate of pension entitlement provided by the UNJSPF on 13 November 2023, his right to a full deferred retirement under Article 30 of the Regulations, Rules, and Pension Adjustment System of the UNJSPF (the Fund's Regulations)

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<sup>1</sup> *Mohammad Saeed Almasri v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1377.

<sup>2</sup> *Ibid.*, para. 86.

amounting to \$3,113.52 per year at age 65, would be lost if his separation date was 31 December 2020, as he was two months short of the five-year vesting period required by the Fund's Regulations.

6. Mr. Almasri requests that the Appeals Tribunal "recognize his UNJSPF contributions as active contributions" to ensure the rightful completion of the five-year vesting period. Alternatively, he requests that the Appeals Tribunal order the transfer of the full value of his retirement benefits based on a completed five-year vesting period, in accordance with the Fund's Regulations.

7. Mr. Almasri further submits that, in paragraph 34 of the UNAT Judgment, his statements in the meeting minute should not have been misinterpreted as evidence against him. Instead, the minute should be regarded as a complaint against Mr. Almasri's supervisor for a lack of communication and involvement with him, rather than as a "confession of [Mr. Almasri's] shortfall".

8. Mr. Almasri contends that the short-notice separation caused him significant hardship, including his inability to hire a professional attorney. With such support, he could have exercised his right to a hearing before the United Nations Dispute Tribunal (UNDT) and claimed salaries for the entire period of the rebuttal delay, rather than just the six months' salary that he initially proposed before the Appeals Tribunal.

### **The Secretary-General's Comments**

9. The Secretary-General requests that the Appeals Tribunal dismiss Mr. Almasri's application for revision.

10. The Secretary-General reminds us that pursuant to Article 11(1) of the Statute of the Appeals Tribunal (Statute), a party may apply for a revision "on the basis of the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Appeals Tribunal and to the party applying for revision". The Secretary-General recalls that UNAT jurisprudence holds that an application for revision can only succeed if it meets these strict and exceptional criteria. The Secretary-General notes that the UNAT has held that final judgments cannot be readily set aside and to do so must be on limited grounds and for the gravest of reasons.

11. The Secretary-General submits that Mr. Almasri failed to demonstrate any new, decisive facts that were unknown to him or to the UNAT at the time the UNAT Judgment was rendered. The Secretary-General argues that the benefits for which Mr. Almasri would have been eligible are set forth in the Fund's Regulations, which are publicly available on the UNJSPF's website. He further contends that Mr. Almasri could have easily accessed the website and consulted the "For Clients" section for information regarding his entitlements under the Fund's Regulations or used other available avenues to seek the clarity he needed at any time. Therefore, the estimated amounts are not facts that were unknown to him or the Appeals Tribunal when the UNAT Judgment was rendered.

12. Because Mr. Almasri's assertions fail to meet the requirements of Article 11 of the Statute, the Secretary-General requests that the UNAT dismiss the application in its entirety.

### **Consideration**

13. We start with the requirements set out in both Article 11(1) of the Statute and Article 24 of the UNAT's Rules of Procedure. An applicant must establish several cumulative criteria, each criterion must be established, and the absence of any one of them will be fatal to a request for revision. The first is the existence of a "decisive fact"—a fact that, if accepted, would be decisive in determining the previous judgment otherwise than as it was decided. The second requirement is that this decisive fact must have been discovered after the judgment was rendered or issued. The judgment must have been made by the UNAT in ignorance of this fact. Finally, this decisive fact must have been unknown to the applicant seeking to rely on it and that ignorance cannot have been a result of an applicant's negligence. As already noted, statutory timing criteria also apply to the application for revision, but they are not at issue in this case.

14. Mr. Almasri's primary complaint is that the remedy awarded to him failed to make him eligible for a better retirement pension based on a longer deemed service and contribution history. He claims that, had his service lasted an additional two months, he would have completed five years of contributory service, thereby vesting more advantageous pension rights in him.

15. While this fact was not made known to the UNAT at the time of its decision, it could have been ascertained with reasonable diligence by Mr. Almasri. Moreover, Mr. Almasri could

have also presented this fact, including with supporting evidence, to the UNDT and thereafter the Appeals Tribunal. As the Secretary-General has pointed out, multiple avenues were available through the UNJSPF for staff members to ascertain the various consequences of the remedies sought. It was Mr. Almasri's "negligence"—in the sense that he could have taken steps but failed or neglected to do so—that brought about his factual ignorance.

16. Further, Mr. Almasri only provided two estimated pension calculations obtained from the UNJSPF at his request, dated 13 November 2023, indicating that he would not be eligible for a pension if the separation date was 30 December 2020, but would be eligible if it were 30 June 2021. In these circumstances, Mr. Almasri could have sought and provided the evidence he now wishes us to consider but failed to do so in 2023.

17. Nor can it be said that the knowledge of this fact at the time of the UNAT Judgment would have been decisive of the case in the sense that we would necessarily have granted an enhanced remedy to secure the pension entitlements Mr. Almasri now seeks. Given that he sought six months' net base pay, and that it is very unusual to award a remedy greater than what a staff member requests in such situations, it cannot be concluded confidently that this additional factual information would have persuaded the Appeals Tribunal to increase the remedy to achieve the desired result Mr. Almasri now seeks.

18. Since none of the three mandatory criteria summarised above has been met, as would be necessary for the applicant to succeed, Mr. Almasri's application for revision must fail.

**Judgment**

19. Mr. Almasri's application for revision of Judgment No. 2023-UNAT-1377 is dismissed.

Original and Authoritative Version: English

Decision dated this 25<sup>th</sup> day of October 2024 in New York, United States.

*(Signed)*

Judge Colgan, Presiding

*(Signed)*

Judge Forbang

*(Signed)*

Judge Sheha

Judgment published and entered into the Register on this 14<sup>th</sup> day of November 2024 in New York, United States of America.

*(Signed)*

Juliet E. Johnson, Registrar