



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1519

Fernando Miguel Salon
(Applicant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT ON APPLICATION FOR INTERPRETATION

Before:	Judge Kanwaldeep Sandhu, Presiding Judge Graeme Colgan Judge Gao Xiaoli
Case No.:	2024-1918
Date of Decision:	21 March 2025
Date of Publication:	22 April 2025
Registrar:	Juliet E. Johnson

Counsel for Mr. Salon:	Self-represented
Counsel for Secretary-General:	Agnieszka Martin

JUDGE KANWALDEEP SANDHU, PRESIDING.

1. Mr. Fernando Miguel Salon has filed an application for interpretation of Judgment No. 2024-UNAT-1432 issued by the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) on 6 May 2024 in the case of *Fernando Miguel Salon v. Secretary-General of the United Nations* (the UNAT Judgment).¹

2. Mr. Salon is a former staff member with the Internal Audit Division, Office of Internal Oversight Services (OIOS) who separated from service upon retirement on 30 June 2022. In the UNAT Judgment, the Appeals Tribunal dismissed Mr. Salon's appeal against Summary Judgment No. UNDT/2023/029 in which the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) had found not receivable *ratione materiae* his claims of sustained harassment, abuse of authority, humiliation, and retaliation during his employment.²

3. For the reasons set out below, the Appeals Tribunal dismisses the application for interpretation of the UNAT Judgment.

Facts and Procedure

4. On 27 June 2022, Mr. Salon filed a complaint of harassment and abuse of authority with the Organization alleging long-term and serious misconduct towards him by various members of his supervisory and managerial staff.³

5. The following day, on 28 June 2022, Mr. Salon filed a similar but not completely identical document with the UNDT in the form of an application to adjudicate upon his complaints and to grant him remedies. In his UNDT application he asserted that he had sought management evaluation regarding his complaints on several dates, the same dates on which he contended in his formal complaint to the Organization that he had attempted to bring attention to his claims of alleged harassment and abuse of authority and to have this treatment stopped.⁴

¹ *Fernando Miguel Salon v. Secretary-General of the United Nations*, Judgment No. 2024-UNAT-1432 (UNAT Judgment).

² *Salon v. Secretary-General of the United Nations*, Judgment No. UNDT/2023/029 (UNDT Summary Judgment).

³ UNAT Judgment, para. 3.

⁴ *Ibid.*, para. 4.

6. On 12 July 2022, the Secretary-General filed a motion for summary judgment arguing that the application was not receivable as a matter of law.⁵

7. On 18 May 2023, the UNDT issued the UNDT Summary Judgment dismissing Mr. Salon's application as not receivable *ratione materiae*.⁶ The UNDT found that Mr. Salon had not established that the Secretary-General took an administrative decision, and in any event, Mr. Salon had not sought management evaluation of an administrative decision, a necessary statutory prerequisite to having his complaint adjudicated by the Dispute Tribunal.⁷

8. On 24 May 2023, Mr. Salon was advised by the Administration that his complaints submitted on 27 June 2022 were being assessed, that progress was being made in this exercise in accordance with the applicable legal framework, and that the Critical Incident Response Section of the Administrative Law Division of the Office of Human Resources of the Department of Management Strategy, Policy and Compliance (DMSPC) would contact him again "as soon as possible".⁸

9. On 14 June 2023, Mr. Salon filed an appeal of the UNDT Summary Judgment.⁹

10. By letter dated 23 January 2024, DMSPC informed Mr. Salon that following a preliminary assessment of his complaint it had been decided that an investigation into his complaint was not warranted and that therefore the matter was closed.¹⁰

11. On 6 May 2024, the Appeals Tribunal issued the UNAT Judgment dismissing the appeal and affirming the UNDT Summary Judgment. The Appeals Tribunal found that the UNDT correctly concluded that there had been neither an administrative decision of Mr. Salon's complaints about his treatment, nor a request by him for management evaluation of such a decision. The UNDT therefore correctly decided that it was without jurisdiction to consider the merits of Mr. Salon's case. The Appeals Tribunal however noted that it appeared that a decision had been made on 23 January 2024, which "might now form the basis of a justiciable claim to be referred to management evaluation if regulatory time limits have been or are complied with".¹¹

⁵ *Ibid.*, para. 8.

⁶ UNDT Summary Judgment, para. 19.

⁷ *Ibid.*, paras. 17 and 18.

⁸ UNAT Judgment, para. 6.

⁹ *Ibid.*, para. 10.

¹⁰ *Ibid.*, para. 7.

¹¹ *Ibid.*, para. 54.

Submissions

Mr. Salon's Application

12. Mr. Salon claims that the Appeals Tribunal was incorrect in finding that “there was no administrative challenge to management decisions” instead of considering that he had correctly sent his case to the mandatory responsible officials in accordance with Administrative Instruction ST/AI/2017/1 (Unsatisfactory conduct, investigations and the disciplinary process). Given the subject-matter of his case, no “presentation to the MEU [was] required”.

13. Mr. Salon further submits that the Appeals Tribunal erred in finding that he had not requested management evaluation. He had filed his request for “management evaluation” on 27 June 2022 and DMSPC responded on 23 January 2024 on behalf of the Secretary-General. He argues that the Management Evaluation Unit was not the appropriate “management evaluator”, but rather DMSPC to which he had submitted a management evaluation request pursuant to ST/AI/2017/1.

14. Mr. Salon contends that while the Appeals Tribunal suggests at paragraph 55 of the UNAT Judgment that he could again refer his case for management evaluation, there is no need, since he already did that on 27 June 2022.

15. Mr. Salon requests that “[i]n interpreting or clarifying the Judgement, [i]t will be helpful if UNAT remands the case directly to UNDT”. Mr. Salon requests clarification of the UNAT Judgment “in order to see justice”.

The Secretary-General's Comments

16. The Secretary-General contends that Mr. Salon's application does not seek clarity of any part of the UNAT Judgment. Nor does Mr. Salon argue any reasonable doubt about the Appeals Tribunal's will or the arguments leading to the Appeals Tribunal's conclusion. Rather, Mr. Salon attempts to relitigate his case and invites the Appeals Tribunal to reconsider its decision and to remand the case to the UNDT.

17. The Secretary-General concludes that Mr. Salon's submissions fail to meet the criteria of Article 11(3) of the Appeals Tribunal Statute (Statute) and asks that the application for interpretation of the UNAT Judgment be denied.

Considerations

18. Article 10(6) of the Statute provides that judgments of the Appeals Tribunal shall be final and without appeal, subject to the provisions of Article 11 of the Statute.

19. Article 11(3) of the Statute and Article 25 of the Appeals Tribunal's Rules of Procedure (Rules) provide that either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of the judgment.

20. Article 25 of the Rules states that it is for the Appeals Tribunal to "decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation".

21. The Appeals Tribunal has previously held that "an application for interpretation will be admitted only if the meaning or scope of a judgment is unclear or ambiguous. Interpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubts about the will of the Tribunal or the arguments leading to a decision. But if the judgment is comprehensible, whatever the opinion the parties may have about it or its reasoning, an application for interpretation is not admissible".¹²

22. For reasons set out below, we find that there is no ambiguity in the UNAT Judgment and that there is no basis for the application for interpretation of the UNAT Judgment. The meaning and scope of the UNAT Judgment is clear and there is no reasonable doubt as to the intention of the Appeals Tribunal.

23. In support of his application, Mr. Salon argues that the UNAT Judgment made an incorrect finding of fact that there was no "administrative challenge to management decisions" when there was. He refers to an email dated 10 May 2020 from Mr. Salon to his superior requesting a meeting, including a MS Teams meeting to discuss his disagreement with comments and ratings about his performance evaluation for 2019-2020.

24. In the UNAT Judgment, the Appeals Tribunal clearly considered that Mr. Salon had asserted that he had sought management evaluation regarding his complaints "on several dates". These dates are the dates that he said in his complaint to the Organization that he had attempted

¹² *Margaret Mary Fogarty, Robert Sheffer, Monia Spinardi, Astrid Dispert & Minglee Hoe v. Secretary-General of the International Maritime Organization*, Judgment No. 2021-UNAT-1148, paras. 48-50 (internal citation omitted).

to bring notice of his claims of alleged harassment and abuse of authority and to make this treatment stop.¹³ The Appeals Tribunal held that these did not amount to a request for management evaluation as required by the legislative framework.

25. In particular, Mr. Salon says that he requested management evaluation on 27 June 2022. In the UNAT Judgment, the Appeals Tribunal considered this and held that the 27 June 2022 request was a formal complaint of harassment and abuse of authority not a request for management evaluation. The next day he filed an application to the UNDT. As of that date there was no administrative decision but rather the commencement of an investigation into his complaint. The decision on his complaint was made later, by DMSPC, on 23 January 2024.

26. The Appeals Tribunal unequivocally held that Mr. Salon did not seek management evaluation by the MEU before purporting to commence proceedings before the UNDT and that a request for management evaluation to the MEU is a mandatory step in this case.¹⁴

27. In conclusion, Mr. Salon does not seek clarification of the UNAT Judgment but rather attempts to relitigate his case and is requesting that the Appeals Tribunal reconsider its findings in the UNAT Judgment. This is not the appropriate use of the Statute's provisions for an application for interpretation.

28. In *Kasmani*, the Appeals Tribunal, after commenting on the nature and purpose of applications for interpretation, held that an application for interpretation is not receivable if its actual purpose is to contest a final judgment or to obtain comments on that judgment. It is only admissible if the wording of the judgment is not sufficiently clear, owing to ambiguity or incoherence, such that a party might, in good faith, be unsure of the meaning or scope of that judgment.¹⁵ That is not the case here. Mr. Salon is simply disagreeing with the UNAT Judgment and contesting it rather than seeking clarification of some ambiguity.

29. The application is therefore dismissed.

¹³ UNAT Judgment, para. 4.

¹⁴ *Ibid.*, paras. 44-45.

¹⁵ *Kasmani v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-064, para. 8.

Judgment

30. Mr. Salon's application for interpretation of Judgment No. 2024-UNAT-1432 is dismissed.

Original and Authoritative Version: English

Decision dated this 21st day of March 2025 in Nairobi, Kenya.

(Signed)

Judge Sandhu, Presiding

(Signed)

Judge Colgan

(Signed)

Judge Gao

Judgment published and entered into the Register on this 22nd day of April 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar