



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1610

Ashok Kumar Nigam
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT

Before:	Judge Graeme Colgan, Presiding Judge Nassib G. Ziadé Judge Gao Xiaoli
Case No.:	2024-1979
Date of Decision:	31 October 2025
Date of Publication:	16 December 2025
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Amanda Stoltz

JUDGE GRAEME COLGAN, PRESIDING.

1. Ashok Kumar Nigam, a former staff member of the United Nations Development Programme (UNDP), contested the decision of the Office of Audit and Investigations (OAI) to close his case after an initial assessment of his complaint of harassment and abuse of authority (Complaint) (contested decision).
2. In Judgment No. UNDT/2024/093 (impugned Judgment),¹ the United Nations Dispute Tribunal (UNDT) dismissed the application.
3. Mr. Nigam filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal or UNAT).
4. For the reasons set out below, the Appeals Tribunal dismisses the appeal.

Facts and Procedure²

5. Mr. Nigam served at UNDP on a fixed-term appointment at the D-1 level as Resident Coordinator and Resident Representative in Riyadh, Saudi Arabia.³ He retired from UNDP in 2018.⁴
6. Subsequently, two UNDP staff members at the Communications Group, Bureau of External Relations—a Manager of Fundraising & Engagement (M/FE) and the Director of Communications (D/C)—raised allegations that between 2015 and 2017 Mr. Nigam had committed harassment, discrimination and abuse of authority (the allegations). They alleged that Mr. Nigam made an antisemitic statement to the D/C and, by supporting antisemitic views, attempted to interfere with the decision-making of the M/FE and the D/C.
7. The UNDP engaged investigators from the International Monetary Fund (IMF) to undertake a preliminary investigation into these allegations.⁵ By memorandum dated 16 April 2019, Mr. Nigam was informed by an investigator from the Office of Internal Investigations of the IMF (OII/IMF) that pursuant to a cooperation agreement between UNDP

¹ *Nigam v. Secretary-General of the United Nations*, Judgment dated 7 November 2024.

² Summarized from the impugned Judgment and *Ashok Kumar Nigam v. Secretary-General of the United Nations (Nigam 1)*, Judgment No. 2022-UNAT-1269, as relevant to the appeal. The facts of Mr. Nigam's earlier disputes that are not relevant to this appeal are omitted.

³ Impugned Judgment, para. 1.

⁴ *Nigam 1* Judgment, *op. cit.*, paras. 4-5.

⁵ *Nigam 1* Judgment, *op. cit.*, para. 4.

and OII/IMF, it had been requested to preliminarily assess, and to investigate if appropriate, those allegations against him.⁶

8. On 5 August 2019, Mr. Nigam was notified that OII/IMF had concluded its investigation, and that the investigation had found that the allegations against him were not substantiated.⁷

9. On 19 November 2019, Mr. Nigam filed the Complaint with the OAI in which he alleged that the two staff members who had made the allegations against him had willfully made false, fabricated and malicious accusations against him and that the UNDP Administrator had acted without adequate evidence and due diligence in deciding to undertake the investigation against him.⁸

10. On 12 December 2019, Mr. Nigam was informed that the case against him had been formally closed and that he had been exonerated of the allegations of misconduct made by the two complainants.⁹

11. In the Assessment Report dated 17 January 2020 and prepared in response to his own allegations against the original complainants, an Independent Investigations Consultant (the Consultant) laid out her analysis and concluded that Mr. Nigam's complaint lacked sufficient evidence to justify an investigation.¹⁰

12. On 17 February 2020, Mr. Nigam was informed of the contested decision.¹¹ The OAI letter stated:¹²

I am writing in reference to the allegations of wrongdoing made in your memo of 19 November 2019.

After an assessment of the allegations in accordance with UNDP procedures, the Office of Audit and Investigations (OAI) has determined that an investigation is not warranted and has closed the case.

⁶ Impugned Judgment, para. 9.

⁷ *Ibid.*, para. 11.

⁸ *Ibid.*, para. 12.

⁹ *Ibid.*, para. 13.

¹⁰ 17 January 2020 Assessment Report, para. 45.

¹¹ Impugned Judgment, para. 16.

¹² 17 February 2020 letter from OAI.

13. On 18 March 2020, Mr. Nigam filed a request for management evaluation of the contested decision. By letter dated 29 April 2020, the Assistant Administrator and Director of the Bureau for Management Services, UNDP, upheld the contested decision.¹³

14. On 23 July 2020, Mr. Nigam filed his application with the UNDT. As one of the grounds for challenging the contested decision, he argued that launching an investigation by UNDP against him on the basis of the allegations had been unlawful.¹⁴

15. In Judgment No. UNDT/2021/092 of 29 July 2021, the UNDT dismissed the application as not receivable. Mr. Nigam appealed.

16. In the *Nigam 1* Judgment, the Appeals Tribunal remanded the case to the UNDT for decision on its merits “based on and limited to those matters referred to in Mr. Nigam’s second management evaluation request, that is by the contents of his letter of 18 March 2020, and which was responded to by letter dated 29 April 2020”.¹⁵

17. On the matter as remanded, Mr. Nigam filed a motion requesting the President of the UNDT to order that the Judge assigned to the case be recused. In Order No. 92 (NBI/2023), the President of the UNDT denied the motion for recusal. Mr. Nigam filed an interlocutory appeal. In Judgment No. 2024-UNAT-1446, the Appeals Tribunal decided that the appeal against Order No. 92 (NBI/2023) was not receivable.¹⁶ It also held that there was no merit to Mr. Nigam’s argument that the UNDT Judge was or would be biased against him or should be disqualified from adjudicating the case on its merits.¹⁷

The impugned Judgment

18. The UNDT dismissed the application and upheld the contested decision. In its analysis, the UNDT also identified and addressed a “decision to investigate [Mr. Nigam’s conduct]” and a “decision to institute a formal investigation [into Mr. Nigam’s conduct]”.

19. In examining the contested decision, the UNDT noted that the M/FE and the D/C had allegedly been offended by the reason given by Mr. Nigam to his request to change the venue for a

¹³ Impugned Judgment, paras. 17-18.

¹⁴ Application, para. 12.

¹⁵ *Nigam 1* Judgment, *op. cit.*, para. 42.

¹⁶ *Ashok Kumar Nigam v. Secretary-General of the United Nations (Nigam II)*, Judgment No. 2024-UNAT-1446.

¹⁷ *Ibid.*, paras. 19 and 24.

meeting that was being planned in connection with a project the M/FE and the D/C were working on “because it was a ‘Jewish oriented venue’”. They considered Mr. Nigam’s response to have been motivated by antisemitism. The UNDT found that Mr. Nigam had admitted asking for the change on the basis that it was “a Jewish venue”. It concluded that the fact that he had indeed made the statement, and that the M/FE and D/C had been offended by it, contradicted his assertion that they made false allegations against him. In any event, he also failed to prove his claim of bias and malice.¹⁸

20. The UNDT maintained that Mr. Nigam’s request to hear witnesses had been denied because the witnesses named could not establish that the allegations against him had been biased, or that the investigation had not been conducted in an objective manner. Some of the witnesses were themselves the subject of an investigation based on the same allegations.¹⁹ Mr. Nigam’s objective in calling these staff members as witnesses to establish that he had been investigated only because of the biased and malicious allegations made by them, was said to be procedurally improper and unfair to the staff members. To have done so would have brought about a “chilling effect” on the process of investigations within the United Nations system and would cripple the investigative body’s ability to pursue future investigations.²⁰

21. The UNDT found that the specific possible bias or even malice of an employee did not imply that the substance of their allegations was not worthy of investigation. In this case, the appropriate official did not deem it necessary to look further to establish whether the allegations against Mr. Nigam had been motivated by bias or malice. The investigators would have been called upon to use their judgment. There is no rule that requires investigators to go further to try to establish impropriety on the part of the complainants. Moreover, there is no evidence that the administrative assessment was biased or that the UNDP was incapable of performing a fair administrative assessment.²¹

22. The UNDT noted that the “decision to investigate [Mr. Nigam’s conduct]” was not an administrative decision capable of being subject to judicial review.²² In any event, the “decision to institute a formal investigation [into Mr. Nigam’s conduct]” had been proper as it was based on the

¹⁸ Impugned Judgment, paras. 35-38.

¹⁹ *Ibid.*, para. 39.

²⁰ *Ibid.*, paras. 46-47.

²¹ *Ibid.*, paras. 49-53.

²² *Ibid.*, para. 42.

information gathered on the allegations made by UNDP employees and there was insufficient basis for arguing that an investigation should not have been instituted.²³

23. The UNDT held that Mr. Nigam had not established that he had suffered any stress or anxiety because of a breach of his rights as a consequence of the contested decision.²⁴

Submissions

Mr. Nigam's Appeal

24. Mr. Nigam requests the Appeals Tribunal to reverse the impugned Judgment, award legal costs, and make several determinations. He also requests the Appeals Tribunal to award compensation for pecuniary damage and order an investigation of his complaint.

25. Mr. Nigam argues that the UNDT erred on a question of law, committed an error in procedure, such as to affect the decision of the case, and erred on a question of fact, resulting in a manifestly unreasonable decision.

26. Mr. Nigam submits that the UNDT failed to address his arguments and follow the Appeals Tribunal's direction in the *Nigam 1* Judgment to examine the merits of the case in an unbiased manner. The UNDT erred in procedure by not allowing him to call the witnesses and by displaying bias against him. The witnesses could have provided evidence that there had been no basis for an investigation into his conduct, the allegations against him had been made with knowledge of his innocence and had been malicious, and some evidence of the context of the events. The UNDT failed to consider the error of OII/IMF that there had been "exculpatory evidence" for launching the investigation. Launching the investigation was wrong and failed to recognize that the United Nations operates in a political environment. The UNDT, equally, showed disregard for the political context.

27. Mr. Nigam further submits that the absence of an Assessment Report was a failure of procedure, which resulted in an unjustified investigation. The UNDT failed to address his argument that under the Organization's approach, he should not have communicated the concern about the venue to his supervisor because it was antisemitic. It raises the question of whether, by the UNDT's apparent acceptance of this approach, the Organization recognizes the chilling effect

²³ *Ibid.*, paras. 43-44.

²⁴ *Ibid.*, para. 54.

on all staff members to communicate politically sensitive concerns to their supervisors. Mr. Nigam asserts it was not his responsibility to share the statements of the potential witnesses with the complainants, M/FE and the D/C, before the witnesses can be called, and to call the witnesses to a hearing.

28. Mr. Nigam contends that the UNDT erred in law by failing to address a relevant issue, which was not whether the investigation had been conducted and whether he had been exonerated in a fair manner, but rather whether the allegations and the launch of the investigation had been wrongful. The UNDT's finding that UNDP performed an administrative assessment is an error in fact: there was no administrative assessment. The UNDT committed an error in procedure by failing to consider that no administrative procedure had been implemented to assess the allegations.

29. Mr. Nigam submits that had the UNDT ruled on the merits of the case in its 2021 Judgment, no external legal advice may have been necessary. In the impugned Judgment, the UNDT provided no reasons for denying his request for costs comprising his legal counsel's fee in the amount of USD 25,000.

30. Mr. Nigam argues that the UNDT was inconsistent in its application of law. Near the end of 2022, the UNDT Judge indicated that she would hear the case in August 2023. However, in May 2023, the President of the UNDT appointed a new Judge to hear the case. A fair-minded observer could well have surmised bias in the re-assignment of the case to a new Judge. There can be a perception of collusion between the UNDT and UNDP with regard to case management. The new UNDT Judge did not address the merits of the case fairly and fully, displayed bias in considering only the arguments of the Secretary-General, and paid no attention to the Investigation Report or the context of the events.

The Secretary-General's Answer

31. The Secretary-General requests the Appeals Tribunal to uphold the impugned Judgment and dismiss the appeal.

32. The Secretary-General argues that Mr. Nigam has failed to demonstrate any reversible error in the impugned Judgment.

33. The Secretary-General submits that Mr. Nigam has failed to demonstrate that the UNDT erred in procedure by not hearing the proposed witnesses. The UNDT considered the justifications he had provided regarding the relevance of the witness testimonies. Some of his arguments as to the potential relevance of the testimonies were not presented before the UNDT and cannot be introduced on appeal. His disagreement with the UNDT's conclusion and claims as to the information these witnesses could have potentially provided, are insufficient. In any event, this evidence could not have assisted the UNDT in determining whether the contested decision was unlawful.

34. The Secretary-General contends that Mr. Nigam has failed to demonstrate that he should have been entitled to the cost of legal fees. He admits not making any effort to seek the services of the Office of Staff Legal Assistance (OSLA) before engaging external legal counsel. There was no allegation—let alone any evidence—that the Secretary-General manifestly abused the proceedings.

35. The Secretary-General submits that Mr. Nigam has failed to demonstrate any bias on the part of the UNDT. The limited contentions he has set forth in his appeal in an attempt to show that the Judge was biased against him do not constitute sufficient evidence to establish bias or a conflict of interest and fail to demonstrate any error on the part of the UNDT.

36. The Secretary-General argues that Mr. Nigam has failed to demonstrate any other error on the part of the UNDT. He has not identified how any of his assertions are relevant to the outcome of the UNDT's Judgment, let alone discharged the burden incumbent upon him to demonstrate a reversible error. In any event, his assertions are misguided and irrelevant to the lawfulness of the contested decision.

37. First, the Secretary-General submits that Mr. Nigam's arguments regarding the lawfulness of the decision to initiate an investigation into the allegations against him are outside the scope of the case. Moreover, neither the decision to initiate, nor the decision to close, the investigation into the allegations were subject to timely management evaluation or challenged before the UNDT within the statutory time limits. Accordingly, although the UNDT interpreted the *Nigam 1* Judgment as directing it to review the decision to initiate the investigation into the allegations on the merits, neither the UNDT nor the Appeals Tribunal were competent to do so.

38. Second, the Secretary-General submits that Mr. Nigam's arguments do not demonstrate any unlawfulness of the contested decision. He did not demonstrate before the UNDT that the Administration had acted unreasonably. He has made no effort to demonstrate a connection

between the alleged procedural shortcomings in the decision to investigate the allegations against him, and the lawfulness of the contested decision. In any event, they could not substantiate his claims of harassment or demonstrate illegality of the contested decision.

39. Third, the Secretary-General contends that the UNDP's Legal Framework did not provide Mr. Nigam with a right to request an investigation of the manner in which the allegations against him had been investigated. In any event, his assertions regarding various alleged injustices in connection with the conduct of the investigation into the allegations were entirely unsubstantiated. His Complaint did not contain sufficient evidence of harassment or any other misconduct on the part of the M/FE, the D/C or the UNDP Administrator. Accordingly, and in the absence of sufficient information to indicate that any wrongdoing occurred, his Complaint was closed in full accordance with UNDP's legal framework.

Considerations

40. It is important at the outset to reiterate the permitted scope of Mr. Nigam's case before the UNDT that is now able to be the subject of this appeal. In *Nigam 1*, the remand to the UNDT was limited to consideration of Mr. Nigam's complaints raised in his second management evaluation request, submitted by letter dated 18 March 2020, and which was determined by the Administration's letter dated 29 April 2020 declining that request.²⁵

41. Mr Nigam's complaint, which was the subject of his refused request for management evaluation, concerned the OAI's decision of 17 February 2020 not to investigate his Complaint of harassment and abuse of authority against him by the two staff members who had earlier complained against him.²⁶ While it is necessary to refer to the earlier complaints against Mr. Nigam, our focus must remain on the decision to close his Complaint and on whether the UNDT's Judgment upholding that decision was lawful.

42. First, Mr. Nigam alleges bias by the UNDT in not permitting him to call as witnesses the two staff members who had lodged the original complaint against him. He asserts that these witnesses could have confirmed: (1) his own allegation that there had been no basis to commence an investigation into his conduct; (2) that they had made their allegations against him knowing of his innocence; and (3) that they had complained maliciously (that is falsely and with ulterior

²⁵ *Nigam 1* Judgment, *op. cit.*, para. 42.

²⁶ *Ibid.*, paras. 10-12.

motives). Mr. Nigam also asserts that these witnesses could have provided context for the events in question.

43. Quite apart from the extraordinarily unreal expectation that these witnesses would, unbriefed, assist and even save his then speculative case, the UNDT correctly surmised that their evidence would not be able to establish that they had been actuated by bias against Mr. Nigam. Nor could those witnesses attest to what he contended was the unfairness and impropriety of the procedure adopted by the OII/IMF's investigation of their complaints.

44. The UNDT did not err in law or fact in refusing to allow Mr. Nigam to call those complainants as witnesses. Mr. Nigam had admitted the facts on which their complaint was based. While he offered an explanation that differed from their reaction to his stated reasons for the proposed change of venue, their evidence could not have altered those facts. It would, as the UNDT concluded, have been an abuse of the hearing process had Mr. Nigam been permitted to do so.

45. The UNDT also concluded correctly that even if the complainants had been biased against Mr. Nigam or even if they acted maliciously as he alleged, their complaints of what he said and their reactions would not necessarily have made the substance of their complaints immune from investigation as Mr. Nigam wishes. There was no evidence to suggest that the investigation that was conducted was biased against Mr. Nigam.

46. Given the nature of the complaints made against Mr. Nigam, it was only proper that there be at least a preliminary investigation of them. To have done nothing in response to the complaints against Mr. Nigam would have been improper. Although it will no doubt have been vexing to have had these complaints made against him, Mr. Nigam achieved the best outcome in the circumstances, an early decision to cease further investigation and determine that there had been no proven impropriety on his part.

47. The UNDP had to be fair to both the complainants and to Mr. Nigam and we are not satisfied that the UNDT was wrong to have concluded that the OII/IMF discharged that duty on behalf of the UNDP. The UNDP was obliged to commence at least a preliminary investigation, and we are unpersuaded by Mr. Nigam's assertions that he should have been exonerated in any manner other than that adopted.

48. Finally, we do not accept Mr. Nigam's criticism of the UNDT's re-assignment of the Judge who was to hear his case. We disagree that a fair-minded observer could reasonably infer that this

reassignment indicated bias on the part of the UNDT or, as Mr. Nigam alleges, collusion between UNDP and the UNDT. Not only is there no evidential support for this serious allegation, but an unbiased and knowledgeable observer of the facts would be aware that assignments of cases between judges occur for a variety of good and justifiable reasons and are not indicative of bias or other improper motives.

49. In the foregoing circumstances, Mr. Nigam's appeal must be and is dismissed.

Judgment

50. Mr. Nigam's appeal is dismissed and the Judgment No. UNDT/2024/093 is affirmed.

Original and Authoritative Version: English

Dated this 31st day of October 2025 in New York, United States.

(Signed)

Judge Colgan, Presiding

(Signed)

Judge Ziadé

(Signed)

Judge Gao

Judgment published and entered into the Register on this 16th day of December 2025 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar