



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2013-495

Hersh
(Applicant)

v.

Secretary-General of the United Nations
(Respondent)

ORDER No. 156 (2013)

1. On 28 March 2013, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in Nairobi issued Judgment No. UNDT/2013/062 in the case of *Hersh v. Secretary-General of the United Nations*. The Secretary-General appealed the Judgment on 7 June 2013 and, on 12 August 2013, Ms. Nanci Hersh filed her answer. Attached to her answer was a “Proposed ... Annex 1”.

2. Also on 12 August 2013, Ms. Hersh filed a motion with the United Nations Appeals Tribunal (Appeals Tribunal) for permission to adduce the “Proposed ... Annex 1” as fresh evidence. The Secretary-General replied to this motion on 23 August 2013, noting that the information in question was already before the Appeals Tribunal as an attachment to the Answer and submitting that Ms. Hersh had not demonstrated exceptional circumstances justifying the admission of new evidence.

3. Pursuant to Article 2(5) of the Statute of the Appeals Tribunal, the Appeals Tribunal may receive additional evidence in exceptional circumstances, if it is in the interest of justice and the efficient and expeditious resolution of the proceedings. The Annex in question is primarily an updated list of the positions for which Ms. Hersh has unsuccessfully applied. Given that the Secretary-General’s appeal is premised in part on the quantum of damages awarded to Ms. Hersh, I am persuaded that the information is relevant to the Appeals Tribunal’s review of her case, as evidence

of her ongoing efforts to mitigate her loss of income and that it is, thus, in the interest of justice to admit it.

4. For the foregoing reasons, Ms. Hersh's motion is granted. Annex 1 shall be before the Appeals Tribunal during its consideration of the case.

Original and Authoritative Version: English

Dated 9th day of September 2013 in
Paris, France.

(Signed)
Judge Jean Courtial
Duty Judge

Entered in the Register on this 9th day of
September 2013 in New York, United States.

(Signed)
Weicheng Lin, Registrar