



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2019-1342

Chhikara

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

Order No. 360 (2020)

President's Order

1. On 16 December 2019, Mr. Virendra Chhikara filed an appeal before the United Nations Appeals Tribunal (Appeals Tribunal) against Judgment No. UNDT/2019/150 in the case of *Chhikara v. Secretary-General of the United Nations* rendered by the United Nations Dispute Tribunal in New York on 15 October 2019.
2. On 6 January 2020, the day after the Appeals Tribunal's winter recess, the Appeals Tribunal Registry (Registry) wrote to Mr. Chhikara requesting that he remove, by 13 January 2020, Annex 3 to his appeal titled "Background of the case" and offering him the option to incorporate part of the "Background of the case" into his appeal brief while not exceeding the word and page limit.
3. That same day, Mr. Chhikara responded to the Registry stating that "the case pleadings [could] not be complete without the details contained in Annex 3", that there was no rule prohibiting a litigant to attach such a document and that in doubt the issue should be presented for a decision to the Appeals Tribunal. The Appeals Tribunal Registry wrote back reiterating that the appeal in its current form was defective and asked that he cure the defect in his appeal and refile it by 13 January 2020.
4. On 7 January 2020, Mr. Chhikara wrote again to the Registry stating that there were errors of fact in the UNDT Judgment and that it was important for the Appeals Tribunal "to know the detailed background of the case". He also stated that under Article 8 of the

Appeals Tribunal Rules of Procedure (Rules), a copy of each document referred to by the appellant in the appeal should be attached to the appeal brief and that in his appeal brief he referred to Annex 3. He also quoted Article 14 of the Appeals Tribunal Statute under which the President of the Appeals Tribunal may waive the requirements of any article of the Rules dealing with written proceedings.

5. That same day, after a further exchange of e-mails, the Registry wrote to Mr. Chhikara advising that under Article 8(4) of the Rules, the Registrar ascertains that an appeal complies with the formal requirements and that if the formal requirements are not fulfilled, the Registrar may require the appellant to conform the appeal to the requirements within a specified time. Under Practice Direction No. 1, paragraph 20, the Registrar shall have the power to reject filings which are manifestly inadmissible. The Registry further wrote that while under Article 8(2) of the Rules, an appeal shall not exceed 15 pages, Mr. Chhikara's appeal brief was effectively 30 pages long (11 pages the actual brief and 19 pages Annex 3 describing the case background) and that by attaching part of his appeal as an annex, he was effectively circumventing the statutory word and page limits which rendered his appeal defective.

6. The Registry reminded Mr. Chhikara that the time limit under Article 8(4) of the Rules to cure the appeal as instructed by close of business on Monday, 13 January 2020 remained unchanged and that in case he failed to cure his appeal by that date, it would be rejected (Registrar's decision). The Registry advised that pursuant to Practice Direction No. 1, paragraph 21, it was open to him to challenge this decision by filing with the Registrar a motion addressed to the President within five calendar days of receipt of the decision, i.e. by Monday, 13 January 2020 (since the time limit expired on Sunday).

7. On 12 January 2020, Mr. Chhikara filed a motion challenging the Registrar's decision. In support of his motion, Mr. Chhikara contends that he highlighted errors of facts contained in the Judgment at paragraph 6 of his appeal brief and that in order to ensure that all facts of the case are available to the Appeals Tribunal, he summarized the "Background of the case" (19 pages) and included it as Annex 3 to his appeal. He submits that his case is "an unprecedented case in the annals of [the Appeals Tribunal]", in which the Administration committed "contempt of court', maybe amounting to 'perjury', by deliberately, repeatedly, stating half-truths / lies at different Tribunals for over three years". In light of the foregoing, Mr. Chhikara requests that the President of the Appeals Tribunal grant him an exception

under Article 14 of the Rules so that he may be allowed to file his appeal, with the “Background of the case”, as an annex. Should the President of the Appeals Tribunal deny his requests, Mr. Chhikara asks for an opportunity to cure his appeal until 27 January 2020.

8. Mr. Chhikara’ motion against the Registrar’s decision does not succeed. The decision of the Registrar to reject Mr. Chhikar’s appeal is lawful. Paragraph 20 of Practice Direction No. 1 reads as follows:

F. Manifestly inadmissible filings

20. The Registrar shall have the power to reject filings which are manifestly inadmissible.

9. Mr. Chhikara’ appeal is manifestly inadmissible because it violates the provisions laid out in Article 8(2) of the Rules which provide 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 or, in the case of an appeal against a decision of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board, a brief containing pleas and an explanatory statement. The brief shall not exceed 15 pages;

(b) A copy of each document referred to by the appellant in the appeal, accompanied by a translation into one of the official languages of the United Nations if the original language is not one of the official languages; such documents shall be identified by the word “Annex” at the top of the first page of each document followed by sequential arabic numerals.”

10. Mr. Chhikara’s appeal brief and Annex 3 “Background of the case” together are 30 pages long and thus clearly exceed the limit of 15 pages prescribed in Article 8(2)(a) of the Rules. Contrary to Mr. Chhikara’s contention, Annex 3 does not fall under Article 8(2)(b) of the Rules. A “document referred to ... in the appeal” mentioned in that provision must either be a document which was part of the trial record or any ruling by a tribunal cited to in the appeal brief (except for those issued by the Appeals Tribunal and the United Nations Dispute Tribunal) and/or in the case of appeals filed against decisions by the United Nations Joint Staff Pension Board or a specialized agency that has accepted the jurisdiction of the Appeals Tribunal, any internal rule, regulation and other administrative issuance cited to. The content of Annex 3 clearly is part of Mr. Chhikara’s pleadings in his appeal brief where he alleges that the UNDT committed errors of facts

resulting in a manifestly unreasonable decision. In Annex 3, Mr. Chhikara evaluates behaviour and actions by the Administration and even makes legal arguments (see e.g. Annex 3, para. 13). I agree with the Registrar's conclusion that by attaching part of his appeal as an annex, Mr. Chhikara has been effectively circumventing the statutory word and page limits.

11. Mr. Chhikara's request to exceptionally allow him under Article 14 of the Rules to file Annex 3 together with his appeal brief must also be denied. The Registry had granted Mr. Chhikara the possibility to include parts of the content of Annex 3 in his appeal brief which is only 11 pages long and could have been extended to 15 pages. Mr. Chhikara has presented no convincing reasons why this could not be done but insisted that Annex 3 stay part of the case file. It would be unfair if Mr. Chhikara was allowed to file an appeal brief which is effectively 30 pages long while other parties are held to the page restriction in Article 8(2)(a) of the Rules.

12. On an exceptional basis, I grant Mr. Chhikara a last chance to save his appeal by withdrawing Annex 3 by 24 January 2020. With Annex 3 removed from the appeal, the requirements of Article 8(2) of the Rules would be met as the appeal brief alone is only 11 pages long and therefore well within the limit of 15 pages. It is not necessary to grant a longer time limit because there is no reason to assume Mr. Chhikara will not be able to withdraw Annex 3 within a week.

IT IS HEREBY ORDERED that the motion against the Registrar decision to reject Mr. Chhikara's appeal as manifestly inadmissible is denied. The motion to grant an exception under Article 14 of the Rules and allow Mr. Chhikara to file his appeal brief together with Annex 3 (Background of the case) is also denied. Mr. Chhikara is ordered to withdraw Annex 3 from his appeal by Friday, 24 January 2020 failing which the rejection of his appeal will become final.

Original and Authoritative Version: English

Dated this 17th day of January 2020
in Hamburg, Germany.

(Signed)
Judge Sabine Knierim,
President

Entered in the Register on this 17th day
of January 2020 in New York, United States.

(Signed)
Weicheng Lin, Registrar