



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2022-1668

Ann-Christin Raschdorf

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 462 (2022)

1. On 17 January 2022, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in Nairobi issued Judgment No. UNDT/2022/004 in the matter of *Ann-Christin Raschdorf v. Secretary-General of the United Nations* (the impugned Judgment) in which the UNDT dismissed an application contesting the three decisions: (i) the decision not to renew Ms. Raschdorf's fixed-term appointment; (ii) the decision of the Division of Healthcare Management and Occupational Safety and Health (DHMOSH) not to recommend her for a disability pension to the United Nations Staff Pension Committee and to the Advisory Board on Compensation Claims (ABCC); and (iii) the decision of the ABCC to reject her claim for compensation on the ground that her claim was time-barred. The Dispute Tribunal found that the non-renewal decision and the ABCC decision were not receivable *ratione materiae* and the DHMOSH decision was legal, rational, and procedurally correct.

2. On 18 February 2022, Ms. Raschdorf filed an appeal against the impugned Judgment with the United Nations Appeals Tribunal (Appeals Tribunal). On 18 April 2022, the Secretary-General filed his answer.

3. On 18 May 2022, Ms. Raschdorf filed a motion for leave to have additional pleadings admitted before the Appeals Tribunal. She wishes to submit a medical report for her doctor's visit that took place on 8 April 2022, in which it is stated that "I would like to advise against any travelling abroad" by Ms. Raschdorf. She submits that due to the

surge of the Omicron variant when she filed an appeal in late February 2022, her doctor's visit had to be postponed and therefore she could not submit a medical report at the time. She claims that this should be considered exceptional circumstances justifying her motion for additional pleadings.

4. Article 31(1) of the Appeals Tribunal's Rules and Section II.A.3 of the Appeals Tribunal's Practice Direction No. 1 provide that a motion to file an additional pleading may be granted if there are "exceptional circumstances justifying the motion."

5. On 25 May 2022, the Secretary-General filed his observations submitting that Ms. Raschdorf is not requesting to file additional pleadings but rather requests to adduce additional evidence.

6. The Appeals Tribunal agrees that this is not a motion to file additional pleadings but a motion to file additional evidence. The Appellant is seeking to file a medical letter which would be evidence in support of her appeal.

7. The Secretary-General submits that the motion does not demonstrate the existence of exceptional circumstances and should be rejected. The Secretary-General submits that the Dispute Tribunal already had information on Ms. Raschdorf's health condition and a recommendation by a doctor that she should not serve in the field, and since Ms. Raschdorf's health condition was available and known to her at the time of the proceedings before the Dispute Tribunal, any such evidence should have been presented before the Dispute Tribunal and for that reason this additional evidence should not be admitted in accordance with article 2(5) of the Statute of the Appeals Tribunal (the Statute).

8. Article 2(5) of the Statute reads: "In exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence, including written testimony, it may receive such additional evidence if that is in the interest of justice and the efficient and expeditious resolution of the proceedings. ... The evidence under this paragraph shall not include evidence that was known to either party and should have been presented at the level of the Dispute Tribunal."

9. The Appeals Tribunal finds there are no exceptional circumstances here to support the Appeal's Tribunal's receipt of the 8 April 2022 medical letter. The letter references the Appellant's health as of the April 2022 and therefore, would not be relevant or material to

the issues in the appeal and those determined in the impugned Judgment, which concerned the Appellant's health at the time of the impugned administrative decision and, possibly, the Judgment. Also, the Appellant's health condition was available and known to her at the time of the Dispute Tribunal's proceedings and the fact that COVID delayed her February 2022 medical exam to April 2022 is irrelevant as the impugned Judgment was issued in January 2022.

10. Accordingly, the Appellant's motion is denied.

IT IS HEREBY ORDERED that Ms. Raschdorf's motion seeking leave to file additional pleadings **IS DENIED**.

Original and Authoritative Version: English

Dated this 14th day of June 2022
in Vancouver, British Columbia, Canada.

(Signed)
Judge Kanwaldeep Sandhu,
Presiding

Entered in the Register on this 14th day
of June 2022 in New York, United States.

(Signed)
Weicheng Lin,
Registrar