



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2009/88
Judgment No.: UNDT/2009/087
Date: 10 December 2009
Original: French

Before: Judge Jean-François Cousin

Registry: Geneva

Registrar: Víctor Rodríguez

MEZOUÏ

v.

SECRETARY-GENERAL OF THE
UNITED NATIONS

JUDGMENT

Counsel for applicant:

n.a.

Counsel for respondent:

Susan Maddox, ALU/OHRM, United Nations Secretariat

Application

1. On 27 October 2009, the applicant submitted to the United Nations Dispute Tribunal (UNDT) a request for review of Judgment No. UNDT/2009/026.

Facts

2. In a letter dated 14 July 2009 the applicant made an application to UNDT following a decision not to appoint her to a post.

3. In its Judgment No. UNDT/2009/026, handed down on 2 October 2009, the Tribunal ruled the above-mentioned application inadmissible on grounds of lateness and dismissed it.

4. In a letter dated 27 October 2009, the applicant made an application for review of that judgment, which she claims to have received on 13 October 2009.

Judgment

5. Article 12(1) of the UNDT Statute clearly states that:

“Either party may apply to the Dispute Tribunal for revision of an executable judgment on the basis of the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Dispute Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence. The application must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgment.”

6. Article 11(3) of the UNDT Statute defines the basis on which judgments become executable:

“In the absence of [...] appeal, [UNDT judgments] shall be executable following the expiry of the time provided for appeal in the statute of the Appeals Tribunal.”

7. Article 7(1)(c) of the Statute of the Appeals Tribunal stipulates that the appeal deadline is 45 calendar days from the receipt of the judgment of the Dispute Tribunal.

8. It may be seen from the combination of the above provisions that the parties, when they discover prior to the expiry of the appeal period a decisive fact within the

meaning of Article 12 of the Statute, may challenge a judgment already promulgated only through the appeal process; further, only when the decisive fact is discovered after the expiry of the appeal period is the revision process available.

9. Thus the applicant, who received judgment No. UNDT/2009/026 on 13 October 2009, had until 27 November 2009 to file an appeal, and as of 27 October 2009, when she applied for review, was entitled to challenge the judgment of 2 October 2009 only through the appeal process and not through judicial review.

10. It follows from the foregoing that the application for review of 27 October 2009 is inadmissible.

11. In addition, the facts alleged by the applicant in support of her request for review are either not facts that were unknown to the Tribunal and the applicant at the time the judgment was rendered, or not decisive facts within the meaning of Article 12 of the UNDT Statute.

12. In view of the foregoing, the Tribunal DECIDES:

The application for revision is dismissed.

Judge Jean-François Cousin

So ruled this 10th day of December 2009

Entered in the Register on 10 December 2009

Víctor Rodríguez, Registrar, UNDT (Geneva)