



**Before:** Judge Vinod Boolell  
**Registry:** Nairobi  
**Registrar:** Abena Kwakye-Berko

NJENGA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT ON AN APPLICATION FOR  
INTERPRETATION**

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**Counsel for the Applicant:**  
Self-represented

**Counsel for the Respondent:**  
Fabrizio Mastrogirolamo, UNDP

## **Introduction**

1. The Applicant filed an application on 28 May 2014 on behalf of his father, JNK, challenging the failure of the United Nations Development Programme (UNDP) to compensate JNK in accordance with appendix D of the Staff Rules for injuries he allegedly sustained while driving a United Nations vehicle.

2. On 17 June 2014, the Tribunal issued a judgment<sup>1</sup> striking out the application on the ground that JNK was recruited by the UNDP on a Special Service Agreement for provisions of services as a driver not as a staff member and therefore could not invoke the jurisdiction of the Tribunal under section 3.1 of the Statute of the Dispute Tribunal.

## **Procedural history**

3. The Applicant has now filed an Application for interpretation of the judgment by quoting an extract from paragraph 19 of the *Ndjadi* judgment<sup>2</sup>, which was quoted in the judgment striking out the case.

In his application, the Applicant stated that he had been hired by UNDP on a service contract [...and the] rules in this case ...indicate that persons recruited under this type of contract are not subject to the Staff Rules...

4. The ground on which the Applicant has filed this Application for interpretation is that the Advisory Body on Compensation Claims (ABCC) has recognized that the injuries sustained by JNK were service-incurred.

5. The Respondent filed his Reply to the Application on 31 August 2015. The Respondent submits that the Tribunal's determination of lack of jurisdiction in the Application dated 28 May 2014 is clear and does not require any interpretation.

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<sup>1</sup> UNDT/2014/065.

<sup>2</sup> UNDT/2011/007.

## Considerations

6. Although the Applicant has quoted an extract from a judgment referred to in *Ndjadi*, the Tribunal understands the Applicant's request is related to the question whether an individual recruited under a UNDP service contract is a staff member within the meaning of the staff rules.

7. Interpretation of judgments are governed by art. 12.3 of the Statute of the Tribunal which reads,

Either party may apply to the Dispute Tribunal for an interpretation of the meaning or the scope of the final judgement, provided that it is not under consideration by the Appeals Tribunal

and by Article 30 of the Rules of Procedure which provides,

Either party may apply to the Dispute Tribunal for an interpretation of the meaning or scope of a judgement, provided that it is not under consideration by the Appeals Tribunal. The application for interpretation shall be sent to the other party, who shall have 30 days to submit comments on the application. The Dispute Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

8. There are two stages that govern interpretation of a judgment. First, there is the procedural requirement whereby the Tribunal has to determine whether to admit the application. Secondly, there is the substantive requirement of the interpretation itself if the application is admitted.

*Can the Application be admitted?*

9. In the case of *Sidell*<sup>3</sup>, the Appeals Tribunal held that the purpose of interpretation as set out in the Statute and Rules of the Appeals Tribunal<sup>4</sup> is not to determine the disagreement of an applicant with a judgment who wishes to reargue an appeal.

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<sup>3</sup> 2014-UNAT-489.

<sup>4</sup> Article 3 of the Statute and Article 25 of the Rules of Procedure which are couched in similar language as the corresponding provisions of the Dispute Tribunal.

10. In *Abbasi*<sup>5</sup> the Appeals Tribunal held,

Turning to the application for interpretation, the Appeals Tribunal notes that interpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubts about the will of the Tribunal or the arguments leading to a decision. But if the judgment is comprehensible, whatever the opinion the parties may have about it or its reasoning, an application for interpretation is not admissible, as it happens in the present case.

11. The present Application for interpretation indicates that the Applicant is expressing disagreement with the judgment striking out of his original claim by deriving support from the decision of the ABCC. This is not the purpose of interpretation as is clearly established by the case law of the Appeals Tribunal.

### **Conclusion**

12. There is no merit in the Application, which is rejected.

*(Signed)*

Judge Vinod Boolell

Dated this 14<sup>th</sup> day of September 2015

Entered in the Register on this 14<sup>th</sup> day of September 2015

*(Signed)*

Legal Officer, for,  
Abena Kwakye-Berko, Registrar, Nairobi

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<sup>5</sup> 2013-UNAT-315.