UNITED NATIONS DISPUTE TRIBUNAL

Cases No.:	UNDT/GVA/2014/ 152/R1, 153/R1, 156/R1, and 161/R1 UNDT/GVA/2015/ 095/R1, and 096/R1
Judgment No.:	UNDT/2019/103
Date:	30 May 2019
Original:	English

Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

MANOHARAN
CHANDRAN
SHARMA
SUBRAMANIAN
NAIK
SIDDIQUI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:
Mohammed Abdou, OSLA

Counsel for Respondent:
Alan Gutman, ALS/OHRM

Introduction

1. The Tribunal is seized of 80 applications related to a challenge against the result of the comprehensive salary scale survey for local staff in India, conducted in June 2013. The applications involve the United Nations Secretariat, the Office of the United Nations High Commissioner for Refugees, the United Nations Entity for Gender Equality and the Empowerment for Women, and three United Nations Funds and Programmes (the United Nations Development Program, the United Nations Population Fund and the United Nations Children's Fund).

2. This judgment concerns six applications filed by six Applicants based in New Delhi working for the Department of Public Information, United Nations Headquarters ("UNHQ-DPI").

Facts

3. The 2013 Comprehensive Salary Scale Survey for local staff based in India ("2013 India Salary Survey") was conducted pursuant to the methodology adopted by the International Civil Service Commission ("ICSC") (see ICSC/72/R.11, Review of the methodology for surveys of the best prevailing conditions of employment at duty stations other than headquarters and similar duty stations - survey methodology II) and the Manual for the conduct of surveys of the best prevailing conditions of employment at duty stations other than Headquarters and similar duty stations – methodology II.

4. As per the above methodology and art. II of the Memorandum of Understanding ("MOU") between the United Nations and the World Health Organization ("WHO") for 2012-2013, WHO was designated to continue to act as responsible agency for the coordination of the local salary scale survey in New Delhi, India. Therefore, WHO had the overall responsibility for the survey, including the appointment of the salary survey specialists.

5. Pursuant to the above-referenced MOU, the United Nations acted as an agent for WHO in performing activities described in the MOU relating to the 2013 salary survey in India.

6. On 10 July 2014, the Chief, Compensation and Classification Section ("CCS"), Human Resources Policy Service ("HRPS"), Office of Human Resources Management ("OHRM"), United Nations, provided the results of the "comprehensive salary survey that [OHRM] conducted on behalf of WHO in New Delhi, India" to WHO for its approval as the responsible agency.

7. By memorandum dated 17 September 2014, a Human Resources Specialist, Compensation, Human Resources Policy and Administration of Justice Unit ("HPJ"), Human Resources Department ("HRD"), WHO, Geneva, informed the Chief, CCS, HRPS, OHRM, United Nations, of the approval of the survey results.

8. The findings of the survey indicated that the salaries of the General Service and the National Officer categories in New Delhi were higher than the labour market by 13.4 per cent and 19.4 per cent, respectively. Because the salary survey entailed more than a 5% decrease in salaries, existing General Service and National Officer staff appointed prior to 1 November 2014 had their salaries "grandfathered/frozen", and new staff were subject to a new salary scale.

9. Following WHO's approval, OHRM published the above-mentioned new salary scale on its website on 1 October 2014, in the following terms:

> Subject: New Delhi (India) local salaries
>
> (AAA) Following the comprehensive salary survey conducted in New Delhi in June 2013, this is to advice you that the results of the survey indicate that salaries for locally recruited staff are above the labour market when compared with the remuneration package of the retained comparators by 13.4 per cent for general service (GGSS) category and 19.4 per cent for national officer category. Accordingly, the following salary scales are issued:

(1) GS 62 and no 22, both effective 1 June 2013, payable only to staff recruited on or after one November 2014. Revised net salaries reflect downward adjustment of (-) 13.4 per cent for GGSS and (-) 19.4 per cent for NNOO.

(2) Amend. one to GS 61 and no 21, effective 1 July 2012, payable to eligible staff already on board prior to one November 2014, the amendments are issued to reflect revised allowances.

(BBB) Revised allowances in Rupees net per annum are as follows:

(1) Child, per child, subject to maximum of six children

a. 23,511 applicable to staff members for whom the allowance becomes payable on or after one November 2014;

b. 27,156 applicable to staff members for whom the allowance becomes payable prior to one November 2014;

(2) First language

a. 29,532 applicable to staff members for whom the allowance becomes payable on or after one November 2014;

b. 34,104 applicable to staff members for whom the allowance becomes payable prior to one November 2014;

(3) Second language

a. 14,766 applicable to staff members for whom the allowance becomes payable on or after one November 2014;

b. 17,052 applicable to staff members for whom the allowance becomes payable prior to one November 2014.

Procedural History

10. On 29 December 2014, the Applicants filed individual motions for extension of time to file applications before the Dispute Tribunal to challenge the result of the 2013 India Salary Survey. At the time, the Applicants, all self-represented, were General Service staff members of UNHQ-DPI, based in New Delhi, India, and in the service of the Organization prior to 1 November 2014.

11. The Dispute Tribunal issued a Summary Judgment on 24 March 2015 (*Manoharan, Chandran, Sharma, Subramanian, Naik and Siddiqui* UNDT/2015/025) whereby it joined the matters, considered the motions as incomplete applications and found them not receivable *ratione materiae* upon reliance on *Tintukasiri et al.* UNDT/2014/026, noting that the decision to freeze the existing salary scales and to review allowances downward did not constitute an administrative decision for the purpose of art. 2.1(a) of the Tribunal's Statute.

12. By Judgment *Subramanian et al.* 2016-UNAT-618, the Appeals Tribunal found that this Tribunal had "exceeded its competence and jurisdiction and committed errors in procedure when it determined that the requests for an extension of time were the 'equivalent' of applications". The Appeals Tribunal therefore reversed the UNDT Judgment and remanded all six matters to this Tribunal, with directions to permit the Applicants to file their applications. The Appeals Tribunal also remanded another 92 similar cases to the Dispute Tribunal.[1]

13. Pursuant to this Tribunal's Order No. 128 (GVA/2016) of 15 June 2016, the Applicants filed their applications in August 2016 (5 Applicants) and in October 2016 (1 Applicant).

[1] See *Taneja et al* 2016-UNAT-628, *Prasad et al* 2016-UNAT-629, *Bhatia et al* 2016-UNAT-630, *Thomas et al* 2016-UNAT-631, *Jaishankar* 2016-UNAT-632 and *Bharati* UNAT-2016-633.

14. The applications were served on the Respondent on 24 January 2017 and he filed his replies on 22 February 2017. The Respondent challenged in his replies the receivability *ratione materiae* of all applications and *ratione temporis* of one of them.

15. In anticipation of the complexity of the issues to be addressed, and bearing in mind that all applicants whose cases had been remanded were self-represented, the Tribunal instructed its Geneva Registry to contact the Office of Staff Legal Assistance ("OSLA") and request that it reach out to them to assess whether it could provide legal representation in the proceedings. OSLA confirmed that it would take necessary action in this respect.

16. By Order No. 115 (GVA/2017) of 17 May 2017, the Tribunal, *inter alia*, ordered the Respondent to make additional submissions on the issue of the applications' receivability (see paras. 11 to 15 of the Order). Additionally, the Tribunal requested the Applicants to inform it if they had been successful in retaining OSLA representation and provided them with a deadline to file comments on the forthcoming Respondent's additional submission.

17. On 6 June 2017, OSLA informed the Tribunal that the Applicants, together with another 49 applicants with identical cases pending before the Tribunal, had retained its services.

18. The Respondent filed his response to Order No. 115 (GVA/2017) on 9 June 2017.

19. By motion dated 5 July 2017, OSLA Counsel requested an extension of time to file comments on the issue of receivability of the applications. The Tribunal granted said extension by Order No. 141 (GVA/2017) of 7 July 2017, and OSLA

Counsel filed comments on the issue of receivability,[2] together with a request to file additional submissions on the merits, on 10 August 2017.

20. The Tribunal held a Case Management Discussion ("CMD") on 30 October 2018 during which it *inter alia* discussed with the parties the issue of the receivability of the applications.

21. The applications were initially assigned to Judge Rowan Downing, who had set them down for a hearing on the merits on 13 and 14 February 2019. Following Judge Downing's Order No. 2 (GVA/2019) of 18 January 2019, *inter alia* returning the case files to the UNDT Geneva Registrar for "possible reassignment to another judge", the matter was reassigned to the undersigned Judge.

22. By Order No. 6 (GVA/2019), the Tribunal vacated the hearing dates after finding "that it is in the interests of justice to determine the receivability of the applications as a preliminary matter, before entering into an examination of their merits". Furthermore, noting that such an issue is of a purely legal nature on which the parties, represented by Counsel, had been given ample opportunity to make comments and file submissions, the Tribunal decided to adjudicate them on the papers.

Parties' submissions on Receivability

23. The Applicants' principal contentions are:

a. A request for management evaluation was not required. Staff rule 11.2(b) provides that the Secretary-General must determine if a decision was taken pursuant to the advice from technical bodies. In *Tintukasiri et al.*,

[2] OSLA's submission on receivability was filed into the case files of similar matters involving GS staff members from five other employing organizations that the Tribunal considered together with the instant case (see Judgments *Prasad et al.* UNDT/2019/099, *Thomas et al.* UNDT/2019/100, *Gera et al.* UNDT/2019/101, *Bhatia et al.* UNDT/2019/102, and *Jaishankar, Bharati* UNDT/2019/104). Since the submission addresses the same receivability issues raised by the Respondent's Counsel in the six applications from UN Secretariat General Service staff, it is incorporated by reference to the latter's case files for judicial efficiency.

the "Administration … found that requests for management evaluation were not receivable 'since the decision was taken pursuant to the advice from [a] Local Salary Survey Committee ("LSSC") in conjunction with salary specialists, and as such of a technical body under the terms of staff rule 11.2(b)". This is the case of the Applicants;

b. Furthermore, the above determination was made on behalf of the Secretary-General as per the language in the letter responding to the requests for management evaluation in *Tintukasiri et al.*;

c. Additionally, staff rule 11.2(b) does not impose a specific formal requirement for the determination of technical bodies. There is no requirement to have a "complete public list of technical bodies" and the determination in *Tintukasiri et al.* was made public in two judgments;

d. Assuming that no determination has been made, the Secretary-General's silence should be interpreted in favour of receivability;

e. The contested decision is an administrative decision affecting the terms of appointment of the Applicants; it is non-compliant with Annex I of the Staff Rules and Regulations, since the Secretary-General, amongst others, failed in his duty to fix the salary scales for staff members at the best prevailing conditions of employment in the locality of the UN office concerned;

f. The Applicants contest (1) the decision to freeze their respective salaries; and (2) the Administration's decision to maintain the salary scale in force prior to the salary freeze, insofar as this decision affects them;

g. Alternatively, the Applicants submit that a general salary freeze decision includes an implied decision to apply the freeze to the affected staff members individually; these implied decisions would therefore be the subject of the present challenge;

h. In the further alternative, the Applicants submit that they have all received oral confirmation from management that the salary freeze is applicable to them individually and thus seek to challenge these specific oral administrative decisions;

i. The Tribunal's Statute makes no distinction between acts of individual application and regulatory measures; art. 2 does not require for the decision to explicitly identify or name the specific individual(s) concerned; rather, what is required is that the staff member be adversely affected by the contested decision; concluding otherwise would allow the Administration to unilaterally define the jurisdictional boundaries of the UNDT by framing its decision in a particular way;

j. Requiring that a document identifies each staff member by name and is individually communicated to each staff member is particularly problematic in cases like the present ones, where the Administration has refrained from submitting individual notifications of the salary freeze;

k. The Respondent's contention that the Applicants ought to have challenged the monthly salary payslips must be dismissed, *inter alia*, since they do not contain or even explicitly refer to the impugned decision—what is challenged in this case is the salary freeze, not the amount of remuneration; further, payslips may reflect the implementation of the contested decision, but do not contain the administrative decision or the reasons for it; it is not logic to ask the Applicants to disregard a clear and unequivocal notification of a salary freeze and seek to challenge the same decision through a document that does not specifically refer to it; time-limits are triggered by notification, not implementation; and

l. Concerning the Respondent's reliance on *Tintukasiri et al.* in support of his argument that the contested decision is not reviewable, the Applicants are of the view that the UNDT is "not bound by a particular judgment but rather by the UNAT jurisprudence as a whole". *Andati-Amwayi*

2010-UNAT-058 and *Pedicelli* 2015-UNAT-555 are also relevant to the Applicants' cases and should be given precedence over *Tintukasiri et al.*.

24. The Respondent's principal contentions are:

a. One of the applications, namely Case No. UNDT/GVA/2014/152/R1 (Manoharan), is time-barred because the Applicant failed to file it by the deadline set by the Tribunal (11 August 2016) without timely requesting an extension of time to do so;

b. The applications are not receivable *ratione materiae* because the Applicants failed to request management evaluation, which was required since their claims do not fall within the exception of staff rule 11.2(b); in accordance with staff rule 3.1, OHRM published the salary scale following its promulgation by WHO. The Secretary-General has not determined that WHO is a technical body and, therefore, it cannot be considered as such for the purpose of staff rule 11.2(b);

c. The Applicants cannot rely on the Dispute Tribunal's publication in a judgment of a description of the Management Evaluation Unit's ("MEU") position in *Tintukasiri et al.*, where management evaluation was not deemed required;

d. The *Tintukasiri et al.* Judgment omitted critical components of the confidential response from the Secretary-General to the requests for management evaluation, including its reserving the right to raise jurisdictional matters;

e. The Dispute Tribunal has no authority to waive a statutory requirement of its jurisdiction; the publication of the *Tintukasiri et al.* Judgment cannot serve as a basis for invoking the principle of estoppel against the Respondent, since judgments are acts of the Tribunal, not of the Respondent;

f. To date, the Secretary-General has not determined that any advisory bodies should be classified as technical bodies for the purpose of staff rule 11.2(b). Thus, no administrative decisions have been formally exempted from management evaluation on the grounds that they have been taken on the basis of advice from an advisory body;

g. The applications are also not receivable *ratione materiae* because the Applicants have not identified a reviewable administrative decision in accordance with art. 2.1.(a) of the Tribunal's Statute. They are contesting the publication of salary scales, which is a regulatory decision and not an individual administrative decision; the decision of the Appeals Tribunal in *Tintukasiri et al.* is directly on point; the Dispute Tribunal in that case had correctly applied the former Administrative Tribunal's jurisprudence in *Andronov* (Judgment No. 1157 (2003));

h. In *Tintukasiri et al.*, the Dispute Tribunal held that "[i]t is only at the occasion of individual applications against monthly salary/payslip of a staff member that the latter may sustain the illegality of the decision by the Secretary-General to fix and apply a specific salary scale to him/her; the Appeals Tribunal agreed with that reasoning; the Appeals Tribunal's ruling is binding on the Dispute Tribunal; and

i. Judgment *Pedicelli* 2015-UNAT-555 does not assist the Applicants since in that case—unlike the present—the challenge was against the individual implementation of a regulatory decision.

Consideration

Receivability ratione temporis

25. The Respondent argues that the application of Applicant Manoharan is time-barred because the latter did not file his application within the deadline set by the Tribunal in its Order No. 128 (GVA/2016), namely by 11 August 2016.

26. While the record shows that, indeed, Applicant Manoharan filed his application through the Tribunal's eFiling portal on 13 October 2016, it also shows that the Applicant had technical difficulties filing on 11 August 2016. The Tribunal further notes that this Applicant was not the only one facing technical issues with the portal, which took time to resolve.[3]

27. The Tribunal is of the view that non-compliance with the deadline for technical reasons and supported by evidence falls outside the scope of art. 8.3, which requires a written request for extension from an Applicant. As such, the Tribunal is satisfied that Applicant Manoharan filed his application after the set deadline due to reasons outside of his control, which he timely flagged. The Tribunal therefore finds that the application is receivable *ratione temporis*.

Receivability ratione materiae

28. The Respondent argues that the applications are not receivable *ratione materiae* because the Applicants failed to request management evaluation of the contested decision, and the Tribunal cannot waive such mandatory requirement.

29. The Tribunal recalls that pursuant to staff rule 11.2(b) (emphasis added):

> A staff member wishing to formally contest an administrative decision taken pursuant to advice obtained from technical bodies, **as determined by the Secretary-General**, or of a decision taken at Headquarters in New York to impose a disciplinary or non-disciplinary measure pursuant to staff rule 10.2 following the completion of a disciplinary process is not required to request a management evaluation.

30. The Tribunal confirms that a request for management evaluation is a legal and jurisdictional requirement of a compulsory nature that cannot be waived, neither by the parties nor by the Tribunal.

[3] See Judgments *Prasad et al.* UNDT/2019/099, *Thomas et al.* UNDT/2019/100, *Gera et al.* UNDT/2019/101, *Bhatia et al.* UNDT/2019/102, and *Jaishankar, Bharati* UNDT/2019/104.

31. Indeed, the purpose of management evaluation is to allow the Organization to correct itself or to provide acceptable remedies to the parties in cases where, upon review, it determines that an administrative decision is unlawful or that the correct procedure was not followed.

32. Management evaluation is *a sine qua non* condition to have access to the internal justice system. Access to justice is not an absolute right and procedural limitations, such as this one, are compatible with the nature and scope of access to justice, provided that they are prescribed by law and do not impair the very essence of such right.

33. Pursuant to staff rule 11.2(b), there are only two situations where the requirement to request management evaluation does not apply: disciplinary cases and decisions taken pursuant to advice obtained from technical bodies as determined by the Secretary-General.

34. The case at hand is not of a disciplinary nature, leaving the Tribunal to assess whether the contested decision, taken upon the advice of the LSSC and Salary Survey specialists, was taken upon the advice of a technical body. Relevantly, staff rule 11.2(b) does not provide for a particular way, e.g., administrative instruction or otherwise, for the Secretary-General to determine technical bodies.

35. The Tribunal notes that at the time of OHRM's cable (see para. 9 above), the Secretary-General had not yet issued an administrative instruction determining what bodies constitute technical ones for the purpose of staff rule 11.2(b). The relevant administrative instruction (ST/AI/2018/7) was issued only on 18 May 2018. Prior to this, staff members had little information, if none at all, concerning what constituted a technical body.

36. It is the Tribunal's view that not requesting management evaluation is an exception to the general rule and, as a consequence, it is incumbent on the Applicants to show that they fall under it.

37. In the present case, the Applicants argue that, at the time they filed their applications, they relied on a previous position by the Administration in *Tintukasiri et al.* whereby "requests for management evaluation were not receivable 'since the decision was taken pursuant to the advice from the [Local Salary Survey Committee ("LSCC")] in conjunction with salary survey specialists, and as such of a technical body under the terms of staff rule 11.2(b)" (brackets in the original). Furthermore, the Applicants claim that in that case, the MEU made a determination about the matter on behalf of the Secretary-General.

38. Administrative practices need to be consistent and uniform over a certain period of time, so that staff members rely on and build legitimate expectations in relation to them. The Tribunal is of the view that the position adopted by the MEU in one or two cases does not constitute a consistent and coherent administrative practice that could lead the Applicants to build a legitimate expectation on which they could have relied upon. Furthermore, it does not rise to the level of judicial precedent given the MEU's nature as an administrative body within the Organization.

39. Moreover, the fact that the Secretary-General has delegated authority to the MEU to perform management evaluations on his behalf under ST/SGB/2010/9 (Organization of the Department of Management), cannot lead to conclude that the Secretary-General is bound by the MEU's interpretation of such requirement in one or two specific situations. On the contrary, delegation of powers is defined from top to bottom of the hierarchical chain and not the other way around.

40. To be more precise, sec. 3 of ST/SGB/2010/9 describes the overall functions of the Under-Secretary-General for Management, whereas its sec. 10 describes the core functions of the MEU. The definition of "technical bodies" is not specifically contemplated in such description of functions. Instead, delegation of authority, to that effect, is contemplated in two other legal instruments: ST/SGB/2009/4 (Procedures for the promulgation of administrative issuances) and, more recently, in ST/AI/2018/7 (Technical bodies).

41. In accordance with sec. 4.2 of ST/SGB/2009/4, "[a]dministrative instructions shall be promulgated and signed by the Under-Secretary-General for Management or by other officials to whom the Secretary-General has delegated specific authority".

42. As a consequence, the Tribunal finds that defining a technical body requires a specific delegation of authority to be exercised under the form of an administrative instruction.

43. From the Tribunal's point of view, it is not the MEU's role to replace the legislative or administrative powers of the Secretary-General unless a delegation of authority has been issued.

44. The Tribunal understands that it is the Secretary-General's exclusive prerogative to legislate and to define what "technical bodies" are, as he recently did, through the Under-Secretary General for Management, in ST/AI/2018/7.

45. The Appeals Tribunal had the same view in its Judgment *Gehr* UNAT-2014-479, where it held that:

> 25. There was no evidence before the Dispute Tribunal (nor before this Tribunal) that the Secretary-General had made a determination pursuant to Staff Rule 11.2(b) designating rebuttal panels as "technical bodies".
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> 26. In the absence of such designation and having regard to the specific provisions of Staff Rule 11.2(b) and the overarching import of Staff Rule 11.2(a) (especially when read together with Article 8(1)(c) of the Dispute Tribunal Statute), the Appeals Tribunal finds that the UNDT had no legal nor evidential basis to justify its determination that a rebuttal panel constituted a technical body, thus exempting Mr. Gehr from the mandatory first step of management evaluation. Moreover, even absent any designation process by the Secretary-General, the particular requirements set out in Section 14.1 of ST/AI/2010/5 do not persuade the Appeals Tribunal that the Secretary-General intended that a rebuttal panel should be considered as a technical body.

46. However, the Tribunal is aware of the fact that the MEU's determination was reflected in a public judgment of both the Dispute and the Appeals Tribunal (*Tintukasiri et al.* UNDT-2014-026, para. 25, *Tintukasiri et al.* 2015-UNAT-526, para. 6). Nonetheless, the Tribunal underlines that none of these judgments created a "judicial precedent" in respect of the requirement related to the request for management evaluation.

47. In fact, both judgments only addressed the issue of "irreceivablity" from the point of view of the nature of the contested decision and did not adjudicate on the point at stake in the instant applications, i.e., the definition of a technical body, nor did they include a determination on the applicability or not of such legal requirement.

48. In *Ovcharenko et al., Kucherov* UNDT/2014/035, this Tribunal stated in the factual section that:

> 15. Some of the Applicants, including Applicants *Ovcharenko* and *Kucherov*, requested management evaluation of the administrative decision of the Secretary–General to implement the … actions and recommendations of the ICSC and the General Assembly[.]

49. In that Judgment, this Tribunal held that:

> 20. As a preliminary matter, since the applications are being rejected on other grounds below, the Tribunal finds that it is not necessary to examine the question whether the Applicants were in fact obliged to submit a request for management evaluation prior to filling an application with the Tribunal and to determine the Receivability *ratione temporis* of the application.

50. The Tribunal also notes that no official communication was issued by the Secretary-General, following the issuance of the above judgments, to inform staff members that the MEU's determination therein with respect to the qualification of the LSSC in conjunction with salary survey specialists as a "technical body", for the purpose of staff rule 11.2(b), was correct or that it reflected the Secretary-General's view with respect to such determination.

51. Finally, the Applicants allege that should it be concluded that the Secretary-General has made no determination concerning technical bodies in the context of staff rule 11.2, his "silence should be interpreted in favour of receivability". This argument cannot stand. In this connection, the Tribunal recalls what the Appeals Tribunal held in *Faust* 2016-UNAT-695:

> 31. The plain wording of the Staff Rule cited above makes it clear that the general rule that a request for management evaluation must be submitted prior to seeking judicial review of an administrative decision is only subject to two exceptions: i) when the administrative decision imposes a disciplinary or non-disciplinary measure following the completion of a disciplinary process; and ii) when the administrative decision is taken pursuant to advice obtained from technical bodies, as determined by the Secretary-General.
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> 32. As for all exceptions, these situations must be interpreted restrictively. The provisions may not be interpreted broadly such as to conclude, for example, that any technical body could be equated to a "technical bod[y], as determined by the Secretary-General" within the meaning of Staff Rule 11.2(b). Similarly, not every formal panel can be likened to a "technical body". Therefore, an analogy cannot be drawn to determine whether the investigation panel in this case constitutes a "technical body". (footnote omitted)
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> 33. Ms. Faust argues that she was exempt from the requirement of submitting a request for management evaluation as a prerequisite to invoking the jurisdiction of the UNDT. She claims that the determination by the Secretary-General under Staff Rule 11.2(b) is irrelevant. She also contends that in the absence of such determination by the Secretary-General, the remaining "ambiguity" should be assumed by the Organization.
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> 34. Ms. Faust's reliance on these arguments is misconceived. This is a case where we apply the general principle of interpretation *ubi lex non distinguit, nec nos distinguere debemus*, i.e. where the law does not distinguish, neither should we distinguish (footnote omitted).

52. Based on the above, the Tribunal finds that requesting management evaluation was, in these cases, a compulsory requirement. Since the Applicants did not do so, their applications are irreceivable.

53. In closing, the Tribunal wishes to commend OSLA for its efforts in reaching out to all self-represented applicants to propose its services, thus assisting in allowing to as many of them proper legal representation in connection with complex legal issues.

Conclusion

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

The applications are rejected as not receivable *ratione materiae*.

(*Signed*)
Judge Teresa Bravo
Dated this 30th day of May 2019

Entered in the Register on this 30th day of May 2019
(*Signed*)
René M. Vargas M., Registrar, Geneva