



**Before:** Judge Sun Xiangzhuang

**Registry:** Geneva

**Registrar:** René M. Vargas M.

NAIDOO

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**SUMMARY JUDGMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

N/A

## **Introduction**

1. Through filings made before this Tribunal, the Applicant, seems to contest his summary dismissal for misconduct following a disciplinary hearing.
2. For the reasons stated below, the application is dismissed.

## **Facts and procedural history**

3. On 8 May 2023, the Applicant filed 66 documents (2 text files and 64 image files) via the UN Dispute Tribunal (“UNDT”) e-filing system (“CCMS”). While he indicated to be filing an “Application for Interpretation of Judgment”, he did not identify the Tribunal’s judgment for which he was seeking interpretation.
4. By email of 13 June 2023, the Tribunal asked the Applicant to decide which type of application he wished to pursue and to file the appropriate form duly completed, dated, and signed by 20 June 2023, and informed him that failure to submit the appropriate form would lead to his application being closed for want of prosecution.
5. On 23 June 2023, the Applicant informed the Tribunal that he was gathering the relevant information required and would file it soonest.
6. On 26 June 2023, the Applicant filed another eight documents including an email exchange showing that his “dismissal was due to the abscondment and insubordination which [he] admitted to”. However, he did not submit the appropriate application form.
7. The application was registered under Case No. UNDT/GVA/2023/026 and was assigned to the undersigned Judge on 20 July 2023.

## **Consideration**

8. Having reviewed the filings on record, the Tribunal notes that the application raises several issues concerning receivability.

9. In this respect, the Tribunal recalls the expectations of the General Assembly in resolutions 66/237 (Administration of justice at the United Nations), adopted on 24 December 2011, and 67/241 (Administration of justice at the United Nations), adopted on 24 December 2012, that effective measures be implemented to deal with manifestly inadmissible applications (see *Sanchez Calero* UNDT/2015/074, para. 8).

10. Accordingly, the Tribunal has on numerous occasions considered matters of receivability on a priority basis without first serving the application on the Respondent or awaiting the Respondent's reply (see, e.g., *Hunter* UNDT/2012/036, *Milich* UNDT/2013/007, *Masykkanova* UNDT/2013/033, *Sanchez Calero* UNDT/2015/074, *Karambizi* UNDT/2018/001, *Morales* UNDT/2019/158, *Cherneva* UNDT/2020/074, *Prakash* UNDT/2021/083, *White* UNDT/2021/089). Therefore, the Tribunal deems that the present matter can be determined on a priority basis without first transmitting a copy of the application to the Respondent for a reply as provided for in art. 8.4 of the Tribunal's Rules of Procedure.

11. Moreover, the Tribunal has the competence to review an application's receivability even if the parties do not raise the issue because "it constitutes a matter of law and the Statute prevents the [Tribunal] from receiving a case which is actually non-receivable" (see *Christensen* 2013-UNAT-335, para. 21). Accordingly, the Tribunal deems it appropriate to decide on the matter by way of summary judgment on its own initiative pursuant to art. 9 of its Rules of Procedure.

12. The scope of the Tribunal's jurisdiction is clearly determined and limited by arts. 2 and 3 of its Statute, providing in its relevant part that:

## **Article 2**

1. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Secretary-General as the Chief Administrative Officer of the United Nations:

...

(b) To appeal an administrative decision imposing a disciplinary measure[.]

...

5. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed against a specialized agency brought into relationship with the United Nations in accordance with the provisions of Articles 57 and 63 of the Charter of the United Nations or other international organization or entity established by a treaty and participating in the common system of conditions of service, where a special agreement has been concluded between the agency, organization or entity concerned and the Secretary-General of the United Nations to accept the terms of the jurisdiction of the Dispute Tribunal, consonant with the present statute.

### **Article 3**

1. An application under article 2, paragraph 1, of the present statute may be filed by:

(a) Any staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;

(b) Any former staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;

(c) Any person making claims in the name of an incapacitated or deceased staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes.

13. In the present case, the documents on file, and in particular the notice of dismissal, show that the Applicant was employed by a private company. Other than the Applicant's unsupported statement in his personal details form when filing his submissions that his Office of employment was "ITC", there is no evidence on record showing that he has any contractual relationship with the United Nations within the meaning of art. 3 of the Tribunal's Statute. As such, the Applicant has no *locus standi* before this Tribunal.

14. Moreover, while the Applicant is contesting a disciplinary measure, it was imposed neither by the Secretary-General of the United Nations under art. 2.1 of the Tribunal's Statute, nor by a specialized agency within the meaning of art. 2.5 of Tribunal's Statute. Instead, the evidence on record shows that the disciplinary measure at issue was imposed on the Applicant by a private entity.

15. Accordingly, the Tribunal finds that it is not competent to examine the present application.

16. Furthermore, the Tribunal notes that the Applicant did not comply with the minimum requirements for filing an application set forth in art. 8 of its Rules of Procedure, despite instructions received from the Registry of the Tribunal.

17. Accordingly, this matter stands to be dismissed for want of prosecution.

### **Conclusion**

18. In view of the foregoing, the Tribunal DECIDES to reject the application in its entirety.

*(Signed)*

Judge Sun Xiangzhuang

Dated this 21<sup>st</sup> day of July 2023

Entered in the Register on this 21<sup>st</sup> day of July 2023

*(Signed)*

René M. Vargas M., Registrar, Geneva