



Before: Judge Sean Wallace
Registry: Nairobi
Registrar: Wanda L. Carter

CHAWLA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for Applicant:
Manuel Calzada

Counsel for Respondent:
AS/ALD/OHR, UN Secretariat

Introduction

1. On 20 June 2025, the Applicant filed a motion with the Dispute Tribunal requesting an extension of time to file *to file a substantive application challenging the administrative decision dated 18 December 2024, which denied compensation and redress for the Organization's prolonged delay in processing disability entitlements arising from a catastrophic IED injury sustained in service with MINUSMA on 3 November 2014.*

2. The Applicant was an Air Operations Assistant with the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) until his separation effective 31 December 2023, following the United Nations Security Council Resolution 2690 (2023) to terminate the mandate of the mission.

3. On 3 November 2014, the Applicant was injured by an improvised explosive device (IED) while en route to the airport for official duties. He was promptly attended by MINUSMA medical officers.

4. From 2015, the Applicant engaged with various UN offices in relation to his injuries. In July 2015, the Applicant was advised by email from the United Nations Ombudsman and Medication Services (UNOMS) of the parameters of filing an Appendix D claim for service incurred injuries, including that “[t]he **deadline for filing an ABCC claim is 4 four months** - and you may want to read up on from when those four months are counted.” He further advised the Applicant to obtain additional information on the guidelines and that the Applicant “may want to look at with the lawyers”, including “OSLA, who are paid to help staff”. UNOMS offered to help the Applicant make “the connection” with the lawyers.

5. Eight years later, on 18 September 2023, the Applicant submitted a claim to the Advisory Board on Compensation Claims (ABCC) seeking compensation under Appendix D for the injuries incurred as a result of the 3 November 2014 IED incident. Since the claim was clearly out of time, the ABCC asked the Applicant if he wished to request a waiver of the time limit. He did and ultimately a waiver of the four-month time limit for filing the claim was granted by the ABCC.

6. On 6 September 2024, ABCC issued a decision letter finding that the Applicant's injuries were service incurred and further finding that the medical advisor had determined that the injuries resulted in a "permanent loss of function of seven percent (7%), and awarded the Applicant approximately USD 22,000 as compensation.

7. On 4 November 2024, the Applicant filed for management evaluation with the Management Advice and Evaluation Section (MAES) citing a violation of the "duty of care and delay in processing" his ABCC claim. The Applicant indicated that he had received information from his supervisor on how the decision for compensation of 7% was reached, but could not address "issues around delay and duty of care in processing [the] ABCC claim".

8. By memo dated 17 December 2024, the Under-Secretary-General for Management Strategy, Policy and Compliance (USG/DMSPC) advised the Applicant of its endorsement of the findings and recommendations of MAES, which had determined that "there was no basis on which to recommend that [the Applicant] be compensated for delay or a lapse in the duty of care."

9. On 25 June 2025, the Applicant filed this motion requesting an extension of time to file a substantive application contesting the 17 December 2024 MAES decision. The application admits that the motion is filed beyond the deadline but asserts that exceptional circumstances justify waiver of the time limit citing: (a) "severe and continuing medical impairment of the Applicant; (b) administrative defect and lack of proper notification; (c) sustained good faith and diligent efforts; and (d) lack of legal representation and access to procedural knowledge.

Consideration

Receivability

10. As a preliminary matter, the Tribunal notes that it is competent to raise a receivability issue on its own initiative, whether or not it has been raised by the parties (*O'Neill* 2011-UNAT-182, para. 31).

11. In the present case, the Applicant filed a management evaluation request on 4 November 2024, following the 6 September 2024 ABCC decision, contesting the delay and failure of the duty of care by the administration in processing his ABCC decision.

12. Having received the above-mentioned management evaluation response from the USG/DMSPC on 18 December 2024, the Applicant, per his own admission in paragraph V.1.2 of the submitted motion, had 90 days to file an application in accordance with art. 8(1)(d)(ii)¹ of the UNDT Statute, that is, by 18 March 2025, but failed to file the application, and further failed to file a request for extension of time to file the substantive application until the filing of this motion on 25 June 2025.

Exceptional Circumstances

13. The Dispute Tribunal Statute authorizes the Tribunal “to suspend or waive the deadlines for a limited period of time and only in exceptional circumstances.” *Id.*, art. 8.3. This provision is implemented in art. 7.5 of the Rules of Procedure which provides that a request for suspension, waiver or extension “shall succinctly set out the exceptional circumstances that, in the view of the applicant, justify the request. The request shall not exceed two pages in length.”

14. Time limits are meant to be adhered to strictly unless the rules provide for exceptions. *Cooke* 2012-UNAT-275; *Mezoui* 2010-UNAT-043. Only circumstances beyond an applicant’s control that prevented the Applicant from exercising the right of appeal in a timely manner may be considered ‘exceptional circumstances’ justifying a waiver of a time limit or deadline. *Shehadeh* 2016-UNAT-689, para. 19. See also, *El-Khatib* 2010-UNAT-029, para.14; *Diagne et al.* 2010- UNAT-067, para. 1; *Bofill* 2014-UNAT-478, para. 19.

¹ The Tribunal notes that although the Applicant did file a management evaluation of the contested decision, he references Article 8.1(d)(ii), which is the provision for filing with the Tribunal “where a management evaluation of the contested decision is **not** required,” and not Article 8.1(d)(i), the provision for cases which require management evaluation. However, as both provisions set the deadline at 90 days, this oversight by the Applicant does not change the reasoning and determination of this judgment.

15. The Tribunal notes the grounds on which the *ex parte* Motion is based and determines that the Applicant has not presented exceptional circumstances that justify the request for an extension of time to file his application.

16. The Applicant first argues that his physical and psychological injuries caused by the 2014 incident (IED blast) constitute exceptional circumstances. He highlights that “these conditions are extensively documented in the medical certificates submitted between 2023 and 2024”. However, the Applicant presents no evidence to support that these conditions had any relation to his present ability to file a timely application. (See, *Bofill, supra*).

17. The record indicates that since the 2014 incident, the Applicant has managed to engage in extensive email communication with the administration and agencies, file an ABCC request, and file a management evaluation of the ABCC decision. The Applicant does not make any argument that he was unaware of the time limits for filing his application before UNDT, and specifically acknowledges awareness of the 90-day time limit.

18. Further, in seeking reinstatement to his prior position as a remedy, the Applicant undermines any argument that his present condition renders him unable to fully participate and function in a meaningful manner, including, by adhering to statutory time limits.

19. The Applicant next posits that the administration “did not inform the Applicant of his right to file an application with the UNDT within 90 calendar days.” He claims that this failure is in breach of Staff Rule 11.4(b)(iii)² and further constitutes a ground to justify a waiver of time limits. The Tribunal disagrees.

20. Nothing in the cited staff rule imposes an obligation on the administration to inform the staff member of this right, and staff members are presumed to know the rules and regulations applicable to their conditions of employment. *Rahman*, 2012-

² It is highlighted that the Staff Regulations and Staff Rules of the United Nations (ST/SGB/2023/1) do not contain a paragraph 11.4(b)(iii), just 11.4(b). However, Article XI of the Staff Regulations and Chapter XI of the Staff Rules, including Staff Rule 11.4 govern deadlines for appeals of contested decisions.

UNAT-260, citing *El-Khatib* 2010-UNAT-029. Further, in the “Conclusion” of the contested decision letter of 17 December 2024, the USG/DMSPC specifically advises the Applicant: “Any recourse in respect of this decision may be addressed to the UNDT in accordance with Staff Rule 11.4.” Staff Rule 11.4 sets forth the deadlines for filing an application with the Dispute Tribunal. Therefore, short of providing the Applicant with legal advice, the Administration fully advised the Applicant of the relevant rules to guide his decision.

21. Accordingly, the Tribunal rejects the Applicant’s argument that there was a failure on the part of the Administration to inform the Applicant of his right to file an application.

22. The Applicant next argues that he “remained actively engaged with the Organization regarding his injuries” by filing medical updates, initiating personnel consultations, and repeatedly inquiring about the status of his claims. Not only does the Tribunal reject that this constitutes an exceptional circumstance, but also considers that this undermines any argument of the Applicant’s inability to timely file his application.

23. The Applicant finally argues that the lack of legal representation and access to procedural knowledge hindered his ability to timely file his substantive argument. The Applicant stresses again his “documented cognitive and psychological impairment”. The Tribunal considers that most, if not all, Applicants would benefit from good legal counsel, not just cognitively impaired ones.

24. However, the record in this case shows that the 17 December 2024 contested decision letter in its final paragraph specifically advised the Applicant that he could seek legal assistance from the Office of Staff Legal Assistance (OSLA) or outside counsel if he wished to appeal the MAES decision. There is no evidence that the Applicant sought legal counsel as advised.

25. Indeed, there is no evidence that obtaining legal counsel in a timely manner was beyond the Applicant’s control. In fact, the record includes an email from the Applicant to his current counsel (dated 17 June 2025) in which he requests legal representation and clearly states the nature of his claim. The fact that the Applicant

waited more than six months to seek counsel does not render his lack of legal representation an exceptional circumstance.

Conclusion

26. The application, insofar as it is premised on the management evaluation response of 17 December 2024, was due on 18 March 2024. It was not filed with the request to extend the time for filing, and to date has not been filed. Even the Applicant's request to extend the time for filing was not filed until 25 June 2025. It is manifestly time-barred and it is not receivable *ratione temporis*.

27. The Tribunal recognizes that the Respondent was not served with the Applicant's motion in this matter, and finds that there is no prejudice to the Respondent as a result of such this failure.

28. In view of the foregoing, the Tribunal denies the motion as irreceivable and rejects the Applicant's request for an extension of time to file his substantive application.

Order

29. For the reasons set forth above, the Motion for Extension of Time to File an Application is DENIED.

(Signed)

Judge Sean Wallace

Dated this 27th day of June 2025

Entered in the Register on this 27th day of June 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi