



**JUDGE SOPHIA ADINYIRA**, Presiding.

### Synopsis

1. Ashish Kumar Sethia (Sethia) joined the International Criminal Tribunal for Rwanda (ICTR) at the level of FS-3, step I, in March 2000. In December 2000, Sethia sought a review of his entry level, which was rejected in February 2001. Thereafter, Sethia made repeated demands to the management of ICTR for a review of his entry level. On 28 March 2008, after his retirement, Sethia submitted a request for administrative review of his entry level by the Secretary-General.

2. The United Nations Dispute Tribunal (UNDT or Dispute Tribunal) found that Sethia's application was not receivable as it was time-barred. This Court affirms the Judgment of the Dispute Tribunal. Sethia failed to make a request for administrative review of the decision regarding his entry level within the two-month time limit under former Staff Rule 111.2(a). We consider that the repeated requests by Sethia to the management of ICTR over a period of seven years for a correction of his entry level were a mere restatement of the original claim and did not stop the deadline for contesting the decision from running. As held by this Tribunal in *Costa*,<sup>1</sup> the Dispute Tribunal does not have the power to waive or suspend the deadline for requesting administrative review under the old internal justice system. The appeal is therefore dismissed.

### Facts and Procedure

3. Sethia joined the ICTR on 14 March 2000 as an Administrative Assistant in the Office of the Registrar at the level of FS-3, step I, on secondment from the United Nations Development Programme.

4. On 21 December 2000, Sethia sought a review of his entry level and the Chief of Personnel informed him in writing in February 2001 that the level of entry offered was correct and in accordance with the procedures in effect at that time.

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<sup>1</sup> *Costa v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-036.





time limit set out in former Staff Rule 111.2 to challenge the decision. Sethia was notified on 9 February 2001 that the determination of his entry level was properly made. Even accepting 9 February 2001 as the relevant date of the contested decision, Sethia waited until March 2008 to submit his request for administrative review, over seven years after the expiry of the applicable time limit.

13. As argued before the Appeals Tribunal in the *Costa* appeal, the Secretary-General contends that the Dispute Tribunal does not have the power to suspend or waive the deadlines for requesting administrative review of a contested decision under the old system of internal justice. In the event that the Appeals Tribunal holds that the Dispute Tribunal can suspend or waive the deadlines, the Secretary-General contends that the Dispute Tribunal correctly found that there were no exceptional circumstances justifying a waiver of the time limit to submit a request for administrative review.

14. The Secretary-General submits that the jurisprudence of the former Administrative Tribunal clearly established that the time for initiating the appeals process 3(i)-4(t)-3(ia)-6(t)-Orary-5( 3(i)-4(t)

17. Secondly, we do not consider that the additional documentary evidence which Sethia seeks to submit before this Tribunal is relevant to the determination of this case. Without addressing the issue of whether there are exceptional circumstances justifying the receipt of the evidence, we consider that there is no basis for exercising our discretion under Article 2(5) of the Statute and Article 10 of the Rules to receive the evidence.

18.

Therefore the Dispute Tribunal erred in law in applying its decision in *Rosca*, which found that the Dispute Tribunal does have this power. The Judgment of the Dispute Tribunal in *that the al dha (2)un1500W 3333*

