



JUD#E IN(S) EINBER# DE RO\*A+PRESIDIN#.

1. The United Nations Appeals Tribunal has before it an appeal of Judgment No. UN&T820118022 rendered by the United Nations Dispute Tribunal or Dispute Tribunal in Geneva in the case of

+. 2D-116 a""li#a+le to staff mem+ers for : hom the allo: an#e  
+e#omes "a\$a+le "rior to one No9em+er 2013

627 first language

a. 25-132 a""li#a+le to staff mem+ers for : hom the allo: an#e  
+e#omes "a\$a+le on or after one No9em+er 2013

+. 33-103 a""li#a+le to staff mem+ers for : hom the allo: an#e  
+e#omes "a\$a+le "rior to one No9em+er 2013

637 se#ond language

a. 13-D66 a""li#a+le to staff mem+ers for : hom the allo: an#e  
+e#omes "a\$a+le on or after one No9em+er 2013

+. 1D-012 a""li#a+le to staff mem+ers for : hom the allo: an#e  
+e#omes "a\$a+le "rior to one No9em+er 2013.

3. Ms. Jaishankar su+mitted a motion for an e0tension of time to file an a""li#ation against Ethe de#ision of A>@, M8(nternational Ci9il !er9i#e CommissionB that the #om"rehensi9e salar\$ sur9e\$ #ondu#ted in Ne: &elhi- (ndia- in June 2013 found that the #urrent salaries for lo#all\$-re#ruited staff are a+o9e the la+our marketF.<sup>2</sup>

1. >n 23 Mar#h 2011- the UN&T rendered Judgment No. UN&T820118022. The UN&T re#alled the A""eals Tri+unal Judgment in the #ase and reiterated that Ethe de#ision to free?e the e0isting salar\$ s#ales and to re9ie: do: n: ard allo: an#esF is not an administrati9e de#ision for the "ur"ose of Arti#le 26176a7 of the UN&T !tate.<sup>3</sup> Noting that- as a matter of la:- the issue of re#ei9a+ilit\$ ma\$ +e ad=udi#ated : ithout ser9ing the a""li#ation on the , es"ondent for a re"l\$ and not: ithstanding that the issue : as not raised +\$ the "arties- the UN&T de#ided Ms. Jaishankar's a""li#ation +\$ : a\$ of summar\$ =udgment and dismissed the a""li#ation as not re#ei9a+le .

S-. / issi\$ns

' s. Jaishankar's Appeal

6. The UN&T has failed to a""re#iate that- des"ite its general a""li#ation- the #ontested de#ision is an administrati9e de#ision : ith dire#t legal #onse<uen#es on her

<sup>2</sup> (m"ugned Judgment- "ara. 1.  
<sup>3</sup> !" - "ara. 13- referring to  
No. 2011-UNAT-126.

terms of appointment and contract of employment. The UN&T's interpretation of administrative decision is narrow and excluding and leaves Ms. Jaishankar without recourse to contest the issue which is in violation of her rights. The freezing of salaries based on the recommendation of the Headquarters Grievance Committee is a decision taken with the intention to frustrate the recommendations of the Grievance Committee and therefore, it is an administrative decision. The UN&T failed to exercise jurisdiction vested in it and committed an error of law.

D. The UN&T erred in procedure by treating Ms. Jaishankar's motion as an incomplete application and rendering a judgment without giving her the opportunity to present her case.

2. The UN&T erred in fact by failing to acknowledge that the facts in issue were fundamentally and materially different from those in Ms. Jaishankar's case. Moreover, in the present case, the process of the comprehensive salary survey was not transparent, was erroneous and fault leading





not mean that the Appeals Tribunal must grant the staff members' request for an extension of time, but it does mean that the Appeals Tribunal cannot convert a staff members' request for more time into an application.

12. Under the Appeals Tribunal's statute scheme, an application is the document

J-1/ent

22. Judgment No. UNAT/2011/022 is reversed and the matter is remanded to the Appeals Tribunal with directions to permit the



Original and Authoritative Version ; English

Dated this 23<sup>th</sup> day of March 2016 in New York- United States.

§  
Judge \* Alejandro G. Gaitanaris,  
residing

§  
Judge Adina D. D'Amico

§  
Judge Thomas G. Carleton

Entered in the Register on this 13<sup>th</sup> day of March 2016 in New York- United States.

§  
\* Registrar General