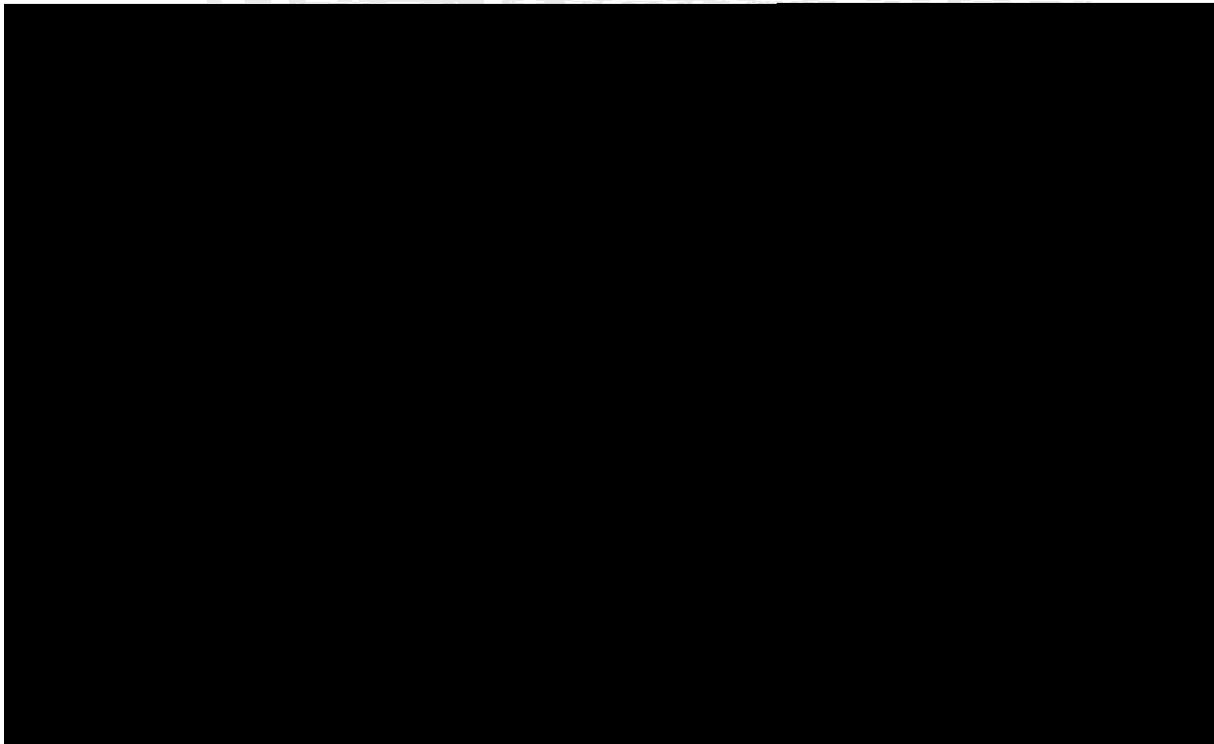




UNITED NATIONS APPEALS

Judgment No. 2016-UNAT-667



Counsel for Mr. Awe: Self-represented

Counsel for Secretary-General: Nathalie Defrasne

THE UNITED NATIONS

...

... The Applicant left Baghdad on 19 November 2012 for Kuwait. At the end of November 2012, he was paid his salary and entitlements as a Baghdad-based staff member but at the end of December 2012, he was paid as a Kuwait-based staff member.

... In January and February 2013, he was paid as a Baghdad-based staff member. On 13 February 2013, he wrote to the Chief of the UNAMI Human Resources Section (Chief/HRS) seeking clarification as to his duty station in the absence of any formal notification indicating a change from Baghdad to Kuwait.

... On 14 February, HRS informed him via email that his post had been erroneously changed in IMIS and that this would impact on his February 2013 salary and could lead to an overpayment and subsequent recovery in March 2013.

... On 17 February, the Chief/HRS informed him that HRS had received a request to change his duty station from Baghdad to Kuwait effective 1 March 2013. A memorandum dated 14 February 2013 confirming the Applicant's change in duty station with effect from 1 March 2013 had been issued by the Officer-in-Charge (OIC) of the Office of the Chief of Staff.

...

... On 3 April 2013, the HR Operations Manager clarified to the Applicant that HRS had "initiated all actions" to have his duty station changed to Baghdad from November 2012 to 28 February 2013 and that his duty station was also changed effective 1 March 2013 to Kuwait.

... In April 2013, the Applicant submitted an F-10 claim form for payment of Daily Subsistence Allowance (DSA) for the days he had been in Kuwait up until 28 February 2013. He did not receive a response.

... On 5 May 2013, the Applicant received an email from the Payroll Section[] at the Kuwait Joint Support Office that confirmed the payment of his assignment grant and provided a breakdown of the payment.

... The Applicant followed up on his DSA claim in June 2013 and was informed by the Chief of Finance, Kuwait Joint Support Office, that the timing and location of the place of his assignment had become an issue that needed to be resolved since this would determine the applicable DSA rate. The Finance Unit was therefore waiting for resolution of this issue to make payment.

... On 19 June 2013, the Applicant received an inter-office memorandum dated 16 June 2013 from the Chief of Staff indicating that the Applicant had departed Baghdad for Kuwait on 19 November 2012 and requesting that the Chief of Mission Support take the necessary "Personnel" action to formalize the transfer of the Applicant to Kuwait. The effective date of the transfer, 19 November 2012, was handwritten on the memorandum by the Chief Administrative Services.

... On 9 July 2013, the Applicant requested management evaluation of the decision to retroactively change his duty station in violation of his contract of employment.

... The Management Evaluation Unit (MEU) informed the Applicant by a letter dated 27 August 2013, that his request for management evaluation was not receivable because the issues he had raised in his request were time-barred.

3.

THE UNITED NATIONS APPEALS TRIBUNAL

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The Secretary-General's Answer

15. Mr. Awe failed to demonstrate that the UNDT's refusal to admit further pleadings and to allow an oral hearing led to the unfair disposal of his case. Contrary to his submissions, the UNDT ruled on the two issues raised in his 22 January 2014 motion when it determined in the UNDT Judgment that the issues for decision were "clearly defined in the Parties' submissions".⁵ Moreover, the UNDT determined that the documentary evidence adequately addressed the issues raised and that an oral hearing was not required. In that regard, the written statement of the former Chief Civilian Personnel Officer was entered into evidence by

Considerations

20. The Appeals Tribunal will first deal with Mr. Awe's motion to file additional pleadings. Article 31(1) of our Rules of Procedure, Section II.A.3 of Practice Direction No. 1, and our jurisprudence provide that the Appeals Tribunal may allow an appellant to file a pleading after the answer to the appeal when there are exceptional circumstances justifying the motion.⁶ In the present case, however, Mr. Awe has not demonstrated the existence of exceptional circumstances to justify the need to file additional pleadings. His motion for additional pleadings presents factual and legal contentions that reiterate the arguments made in his appeal brief. In the circumstances, the motion is denied.

21. Mr. Awe submits that the Dispute Tribunal erred in procedure such as to affect the decision of the case on the merits because it should have ruled on receivability alone.

22. We find no fault with the UNDT's decision.

23. The UNDT correctly held that the issues in the instant case were clearly defined in the parties' pleadings, submissions, and documentary evidence. The Appeals Tribunal has

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29. The UNDT Judgment is affirmed in its entirety.

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