
UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2022-UNAT-1288



Counsel for Applicant: Self-represented

Counsel for Respondent: Hannah Tonkin

JUDGE GRAEME COLGAN, PRESIDING.

1. Ashraf Ismail abed allah Zaqqout has filed applications for correction (case no. 2021-1619) and revision (case no. 2021-1630) of Judgment No. 2020-UNAT-1055 which the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) issued on 30 October 2020 (what we will call “the UNAT 2020 Judgment”).

2. The UNAT 2020 Judgment dismissed Mr. Zaqqout’s appeal from a Judgment of the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT and UNRWA or Agency, respectively) concerning, essentially, the Commissioner-r e f u u e

13. The Appeals Tribunal erred in paragraphs 2, 9, 14, 16, 17, 22, 31 and 32 of its Judgment, because the 22 November 2018 decision was not in his favour. It was motivated by bad faith and marred by procedural error or errors of law.

14. The Appeals Tribunal erred in paragraph 31, because the Agency has acknowledged that the 22 November 2018 decision was pursuant to the 23 August 2018 request, that is to say, for review of the 27 June 2018 decision of the Director of Human Resources. Contrary to the statement in paragraph 31 that “his appeal on this ground of chronological error cannot succeed”, his appeal on the basis of a chronological error can therefore succeed.

15. The Appeals Tribunal erred in paragraph 32 in which it stated that several decisions to extend his contract from 1 July advantaged him by adding six months to his last contract. The decisions were not in his favour.

16. The Appeals Tribunal erred in paragraph 33. UNRWA declared its financial crisis to be over and therefore the reason for the contested decision (i.e., financial deficit) is invalid and not supported by evidence.

17. The Appeals Tribunal erred in paragraphs 21 and 22 when it concluded that the issues related to grade, band and step were outside the scope of the review since a change of category, grade or step may be requested at the time of extension or renewal of

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documentary film shows that the number was incorrect. Mr. Zaqqout says that he had become

28. Regarding the second allegedly decisive fact (i.e., the number of staff separated), Mr. Zaqqout raised this issue in his first application for revision of judgment and the Appeals Tribunal already decided that this was not decisive.

29. The third, fourth, and fifth facts are not decisive to the issues of the case and Mr. Zaqqout merely attempts to relitigate the issues already determined by the Tribunals. This Tribunal stated in ¹ that “an application for revision is not a substitute for appeal; and no party may seek revision of a judgment merely because the party is dissatisfied with the pronouncement of the Tribunal and ‘wants to have a second round of litigation’. A revision of a final judgment is an exceptional procedure and not an additional opportunity for a party to re-litigate arguments that failed at trial or on appeal”.

30. The instant application, being the second request for revision of judgment, is patently without merit, frivolous and vexatious and constitutes an abuse of process pursuant to Article 9(2) of the Statute, for which the Commissioner-General requests an award of costs in the amount of USD 9,600, the costs for appeals.

Considerations

31. This is the second application for revision of the UNAT 2020 Judgment that Mr. Zaqqout has made. Accordingly, we do not propose to canvass again the background leading to the 2020 Judgment which is summarised at the start of our 2021 Judgment.² Mr. Zaqqout’s application for correction of error relates only to the UNAT 2020 Judgment.

32. We begin by setting out the statutory grounds Mr. Zaqqout must establish in each of his applications. Article 11 of the Statute addresses both questions as follows:

1. Subject to article 2 of the present statute, either party may apply to the Appeals Tribunal for a revision of a judgement on the basis of the discovery of a decisive fact wh(o)2.1 (f)3.6 as 2gSe htfborttem(t)8.6en (b26 (a)38.4-0.7 (p)4s(t)2.7 .6 (p)4.ndo)-2.6e.6 (p

ignorance was not due to negligence. The application must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

a closed category of the sorts of errors that may be corrected, the list exemplifies the relatively narrow range of inadvertent errors and guides the Tribunal in determining such applications.

37. It is no exaggeration to say that Mr. Zaqqout alleges that almost every page of the 2020 Judgment contains an error and in many cases, multiple errors.³ Although not impossible, it is inherently unlikely that this is so and tends to indicate that Mr. Zaqqout, rather than identifying the sorts of errors Article 11 specifies, has instead sought to bring a collateral challenge to the Appeals Tribunal's conclusions with which he disagrees. We have, nevertheless, examined each of those alleged errors identified by Mr. Zaqqout.

38. Having considered all the numerous and detailed submissions made by Mr. Zaqqout alleging errors in the 2020 Judgment, we are not satisfied that any mistakes are in the nature of those intended to be covered by Article 11(2). His criticisms are not of slips or the like but are rather attempts to re-litigate his case by both asserting that the UNAT reached wrong conclusions and by attempting to persuade the Tribunal to different interpretations of the facts, but which are untenable or simply speculative. This analysis, combined with the unexplained and significant delay in applying to correct alleged errors means that this application (in case no. 2021-1619) must be and is dismissed.

39. We turn now to the application for revision (case no. 2021-1630) and the four cumulative factors which Mr. Zaqqout must establish, but the absence of even one of which will be fatal to his application. As we have already noted, in 2021 the UNAT rejected a similar application by Mr. Zaqqout yet is now, a year later, faced with another. Also relevant is the fact that the revision is of the 2020 Judgment and the st(.)7.1 20tests mj0ar

revision of a judgment on revision of an original judgment on appeal saying that there was no provision for such an application under the UNAT's Statute and one should not be allowed to be brought.

41. By the same token, however, neither does the Statute either confine a litigant to only one such application or prohibit a second application for revision. There is a distinction between the cases. In the application was for revision of a revisionary judgment but also of the original or underlying judgment. In respect of this earlier substantiv Tc 0.0 r.7 (50y.9 (o)5.9 (r)2.5 (q (al)TJ-0.017 Tc 0.0

an examination of each of the different facts that Mr. Zaqqout now wishes to introduce and when each came to his notice.

45. We do not accept the Respondent's first argument that Mr. Zaqqout has not identified when the first fact on which he relies came to his notice. Although the e-mail has not been put before us (a matter on which we will comment subsequently), he says it came to his notice first in that form on 8 November 2021. The 2020 Judgment is dated 30 October 2020 but was entered into the Appeals Tribunal's Register of judgments on 8 December 2020. The Registry's records show that the 2020 Judgment was sent to Mr. Zaqqout in late January 2021. His application for revision was filed on 1

e-mail first came to his notice on 8 November 2021 and had attached to it an Excel file containing a list of all 284 limited-duration contract staff members. Mr. Zaqqout says that, if admitted into evidence, this will show that the contested decisions were taken arbitrarily or capriciously or were motivated by prejudice or other extraneous factors or followed a procedural flaw or an error of law. He says that is so because under the agreement, his contract was supposed to be extended and converted to a fixed-term contract as of 1 January 2019. Therefore, the contested decision not to extend his contract on the pretext of financial crisis was unlawful.

49. It is simply not possible to infer, as Mr. Zaqqout puts forward, that this list of staff names establishes that decisions taken concerning him were arbitrary, capricious or prejudiced, that he was intended to have had his LDC extended as of 1 January 2019 and that

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