
UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2023-UNAT-1316



Tejbir Singh Soni
(Appellant)

v.

Counsel for Appellant: Self-represented

Counsel for Respondent: Patricia C. Aragonés

JUDGE DIMITRIOS RAIKOS, PRESIDING.

1. Mr. Tejbir Singh Soni contested his separation from service on the grounds of constructive dismissal and coerced resignation by the United Nations Childrcraod-6 (K3 1317.12 Tm(D)Tj317.14.1 (i)2.3 (tl)6.2

8. On 18 May 2021, Mr. Soni reiterated his resignation, which was accepted by the ICO Representative on 23 May 2021.⁶
9. On 26 May 2021, Mr. Soni reached out to the Chief, Human Resources, UNICEF India, to inquire about internal mechanisms at his disposal in relation to accountability, ethical issues, mediation and redressal, and whether these could be actioned after his separation from service.⁷ On 28 May 2021, he addressed a detailed e-mail to the Office of the Ombudsman for United Nations Funds and Programmes, the UNICEF Ethics Office and the Office of Internal Audit and Investigations (OIAI), UNICEF, about his situation.
10. On 4 June 2021, Mr. Soni separated from UNICEF.⁸
11. On 7 July 2021, a Mediation Specialist, Office of the Ombudsman for United Nations Funds and Programmes, underlined to Mr. Soni that the rules of the organization did not allow for reinstatement.⁹ The Mediation Specialist requested him to acknowledge this information and confirm if he was nevertheless still willing to engage in mediation.
12. On 9 July 2021, Mr. Soni formally requested legal assistance from the Office of Staff Legal Assistance (OSLA).¹⁰ On 27 October 2021, OSLA informed him that it would not represent him before the UNDT.¹¹
13. On 2 August 2021, Mr. Soni requested management evaluation of what he construed as constructive dismissal by UNICEF arising from an inharmonious work environment and a lack of support that compelled him to resign.¹²
14. On 6 August 2021, after a follow-up e-mail from Mr. Soni, OIAI

15.

22. Mr. Soni argues that the UNDT, deciding the matter on the basis of receivability and not merits, has failed to exercise jurisdiction vested in it, erred on a question of law and on a question of fact resulting in a manifestly unreasonable judgment. The UNDT committed an error in procedure by not identifying this matter as an exceptional case.

23. Mr. Soni submits that the UNDT failed to take into account misguidance on the part of OSLA by providing conflicting legal advice, which is demonstrated by the 31 July 2021 e-mail¹⁵ implying that OSLA had expressed the opinion of him having an arguable case, and the delay in providing legal assistance—18 days instead of 5 business days.

24. He further claims that OSLA failed to deal with him fairly, act in good faith and respect his dignity, carried personal prejudice and bias against him, and caused him emotional and professional damage.

28. Mr. Soni submits that the UNDT erred in finding that he had interpreted assignments of work during family leave as punishment. The CFO singled him out for victimization.¹⁷

29. Mr. Soni observes that in *Sera v. Secretary-General of the United Nations*¹⁸, the UNAT declared the case to be exceptional and, in the interests of justice, granted the opportunity to present the case. Amendments to

Considerations

Oral hearing

34. Mr. Soni requests that the Appeals Tribunal hold an oral hearing. Oral hearings are governed by Article 8(3) of the Appeals Tribunal’s Statute, which states: “[t]he judges assigned to a case will determine whether to hold oral proceedings”; and by Article 18(1) of the Appeals Tribunal’s Rules of Procedure (Rules), which states: “[t]he judges hearing a case may hold oral hearings on the written application of a party or on their own initiative if such

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45. The appeal is dismissed and Judgment No. UNDT/2022/003 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 24th day of March 2023 in New York, United States.

(Signed)

Judge Raikos, Presiding

(Signed)

Judge Murphy

(Signed)

Judge Halfeld

Judgment published and entered in the Register on this 4th day of April 2023 in New York, United States.

(Signed)

Juliet Johnson, Registrar