


Case No. 2012-356

Tiwathia
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

4. Article 9(4) of the Statute provides that “[a]t any time during the proceedings, the Appeals Tribunal may order an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal”.

5. The Appeals Tribunal previously held that it

[...] may make an interim order for temporary relief, pending the outcome of the appeal, on two conditions:

- i) It must be satisfied on a balance of probabilities that there is real likelihood of irreparable harm which can be prevented if temporary relief is granted; and
- ii) The temporary relief granted is consistent with the judgment of the Dispute Tribunal.¹

6. In the present case, Ms. Tiwathia does not seek an interim measure for temporary relief which is consistent with the Judgment of the Dispute Tribunal. She in fact seeks the exact opposite, namely the suspension of action which the UNDT did not grant her. Since therefore one of the two cumulative conditions under Article 9(4) of the Statute is not fulfilled, I need not further consider the second condition.

7. For the foregoing reason, Ms. Tiwathia’s request for interim injunctive relief is denied.

Original and Authoritative Version: English

Dated 24th day of September 2012 in Buenos Aires,
Argentina.

(Signed)
Judge Inés Weinberg de Roca,
Duty Judge

Entered in the Register on this 25th day of
September 2012 in New York, United States.

(Signed)
Weicheng Lin, Registrar

¹ *Koumoin v. Secretary-General of the United Nations*, Order No. 3 (2010).