



Case No. 021

On 14 October 2021, the Dispute Tribunal (Judgment No. UNDT/2021/112) held that the respondent (Mukhopadhyay) had been wrongfully terminated by the United Nations, and hereby the Tribunal held that the respondent is entitled to be reinstated to his position and to receive three months' compensation in lieu of notice as part of his termination indemnities. The Dispute Tribunal reversed its previous decision and ordered the respondent to pay the three months' compensation in lieu of notice.

In Judgment No. 021, the Administration decided to re-evaluate the first Judgment. The respondent requested the termination decision and reinstatement. Mr. Mukhopadhyay had been separated from service on 15 October 2020.

4. On 14 December 2021, the Secretary-General appealed the Second Judgment to the United Nations Appeals Tribunal or UN/AT. On the same day, he filed a motion seeking leave to file additional evidence in the form of a memorandum dated 28 November 2021, which informed Mr. Uthmaniyah of the decision to reinstate his application on 11 September 2020. The Secretary-General requests that the Appeals Tribunal exceptionally accept this additional evidence, as it is highly relevant to the appeal, and it is available during the consideration of the case before the UNDT.

5. On 21 December 2021, Mr. Uthmaniyah through his Counsel filed his objections to the motion, maintaining that the motion fails to meet the requirements of Article 20 of the UN/AT Statute, in that it neither establishes exceptional circumstances nor promotes an expeditious resolution of the proceedings. On 14 January 2022, he filed an answer to the appeal that the Secretary-General submitted on 14 December 2021.

6. Pursuant to Article 20 of the Appeals Tribunal Statute, this Tribunal may receive additional evidence; in exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence in the interest of justice and the efficient and expeditious resolution of the proceedings.<sup>1</sup> Therefore, to allow evidence under this paragraph, such evidence must not have been known to either party at the level of the Dispute Tribunal.

7. In the present case, the Appeals Tribunal finds that the Tribunal should receive the additional evidence in the interest of justice and the efficient and expeditious resolution of the proceedings. The submission of the first Judgment may be relevant and material to the issues pertaining to the Second Judgment under appeal. Mr. Uthmaniyah will have an opportunity to address submissions on the relevance and materiality of this evidence in a supplement to his answer. The weight to be placed on this evidence, if any, will be determined by the Tribunal in its reasons.

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<sup>1</sup> See also Article 10 of the Appeals Tribunal Rules of Procedure.

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Dated this 24<sup>th</sup> day o( January 2022  
in Ban'ou. er, Canada.

(Signed)  
Jud"e Ean) aldeep Oandhu,  
Duty Jud"e

Dntered in the Ae"ister on this 24<sup>th</sup> day  
o( January 2022 in Ne) For, , United Otates.

Signed!  
Gei'hen" Hin, Ae"istrar