



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2017/106

Judgment No.: UNDT/2018/035

Date: 8 March 2018

Original: English

Introduction

1. On 16 October 2017, the Geneva Registry of the United Nations Dispute Tribunal (UNDT) received 323 similar applications filed by Office of Staff Legal Assistance (OSLA) on behalf of staff members employed by different United Nations entities at the Geneva duty station.

2.

the determination of the post adjustment index at those locations. In the years prior to

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14. Following this new ICSC decision, retroactive payments were made to new staff members in Geneva who joined after 1 May 2017, and had not received a PTA.

15. In the period from July to September 2017 the post adjustment multiplier has been further revised mainly as a result of fluctuation of the US dollar. The decision of ICSC of May 2017 has 0[(15.)] * n BT /F1 9.96 384 60T/0] TJ 0[((of)32/F1 9.9] TJ ET

5 H V S R Q G H Q W ¶ V V X E P L V V L R Q V R Q U H F H L Y D E L O L W \

A matter cannot be before management evaluation and the Dispute Tribunal simultaneously.

20. The application relates to the implementation of July 2017 ICSC decision. A request for management evaluation was submitted on 14 September 2017 and as of the 16 October 2017 date of the filing of the application, the response from the management evaluation was not completed. The response of the management evaluation was subsequently sent to the Applicant on 20 October 2017.

21. It is uncontested that the Applicant submitted the same application without awaiting the result of her request for management evaluation. It is further uncontested that the Applicant indeed has filed an application after receiving the response to her 14 September 2017 request for management evaluation.¹²

22. Allowing the Applicant to file multiple applications with the Tribunal before the deadline for a response to a request for management evaluation has passed would
F R Q W U D Y H Q H W K H 7 U L E X Q D O ¶ V 6 W D W X W H D Q G 5 X O H V F
set out in the Staff Rules, and would be contrary to the intentions of the General Assembly.

7 K H F R Q W H V W H G G H F L V L R Q G R H V Q R W F R Q V W L W X W H

Assembly resolution 3357(XXIX) of 18 December 1974 in which it approved the ICSC Statute. Article 11(c) of the ICSC Statute provides that the Commission shall establish the classification of duty stations for the purpose of applying post adjustments. The ICSC does not advise the Secretary General on post adjustment; rather, the ICSC takes decisions which have to be implemented by the Secretary General. Therefore, the implementation of the ICSC decisions on the post adjustment multiplier does not constitute an administrative decision taken pursuant to advice obtained from technical bodies.

25. The application is not receivable under staff rule 11.2(b), and should be filed under staff rule 11.2(a), requiring staff members to, as a first step, submit to the Secretary General in writing a request for a management evaluation of the administrative decision.

38. Just as was the case with the communication of 11 May 2017, the communication of

Thus, it has been established that fact-finding panels convened under ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority)¹⁷ and rebuttal panels¹⁸ are not technical bodies in the sense of staff rule 11.2 (b).; conversely, the Advisory Board on Compensation Claims (ABCC)¹⁹ and the Local Salary Survey Committee (LSSC)²⁰ are such technical bodies.

42. As has been already noted by the Dispute Tribunal in *Syrja*²¹, making a determination as to what constitutes a technical body is a function of the Dispute or Appeals Tribunals. This said, it is recalled that the Appeals Tribunal pronounced in *Faust* that an investigation panel has, as a general rule, specific tasks and a limited and temporary scope of activities, this being in contrast²² with the *W H F K Q L F D O E R G \ ' Z K L* has a more durable and broader mandate and is generally composed of professionalized members in a specific matter.²² BT /F1 8.04 Tf 1> 99.3842

Nations standards of the rule of law²⁷ and, should this argument be not ~~is~~^{is} sufficiently
persuasive, certainly is not conducive to economy of proceedings²⁸.

Entered in the Register on the 6th day of March 2018

(Signed)

Abena KwakyeBerko, Registrar, Nairobi