UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2015-UNAT-585

Likuyani

(Applicant)

v.

Secretary-General of the United Nations

(Respondent)

JUDGMENT ON APPLICATION FOR REVISION

[redacted]

Counsel for Mr. Likuyani: Self-represented

Counsel for Secretary-General: Nathalie Defrasne

JUDGE INÉS WEINBERG DE ROCA, PRESIDING.

1. On 28 March 2013, the United Nations Appeals Tribunal (Appeals Tribunal) rendered Judgment No. 2013-UNAT-297 in the case of *Likuyani v. Secretary-General of the United Nations*. On 19 October 2014, Mr. Aineah Likuyani filed a request for revision of judgment and on 24 November 2014, the Secretary-General filed his comments.

Facts and Procedure

2. Mr. Likuyani joined the Organization in February 1986 with the United Nations Centre for Human Settlements (UNCHS) in Nairobi, Kenya, as an Assembler/Hand Collator. He was separated from service without notice effective 28 October 1998, after he was found to have filed false claims for reimbursement of medical bills and to have made personal international phone calls from an official line without authorization.

3. Mr. Likuyani appealed. In Judgment No. 976 dated 17 November 2000, the former United Nations Administrative Tribunal (former Administrative Tribunal) rejected Mr. Likuyani's application.

4. On 11 July 2001, Mr. Likuyani applied to the former Administrative Tribunal for revision of Judgment No. 976. His application was returned for correction and resubmission. Mr. Likuyani thereafter made several extension requests. His case was transferred to the United Nations Dispute Tribunal (UNDT) in Nairobi in August 2010.

5. On 20 September 2010, Mr. Likuyani filed an application with the Dispute Tribunal for revision of Judgment No. 976. In Judgment No. UNDT/2012/040 issued on 28 March 2012, the Dispute Tribunal declared Mr. Likuyani's application not receivable. In the view of the UNDT, Mr. Likuyani's revision application failed to satisfy Article 29 of the UNDT Rules of Procedure, which requires "the discovery of a decisive fact that was, at the time the judgement was rendered, unknown to the Dispute Tribunal and to the party applying for revision".

6. Mr. Likuyani appealed on 19 May 2012, and the Secretary-General answered on 27 July 2012. On 24 May 2013, the Appeals Tribunal rendered Judgment No. 2013-UNAT-297, dismissing Mr. Likuyani's appeal. The Appeals Tribunal found that the application before the UNDT was not receivable as neither the Appeals Tribunal Statute nor the Statute of the UNDT

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12. Contrary to Mr. Likuyani's contention, the Appeals Tribunal did not review the disciplinary process which led to the decision to separate him. The Appeals Tribunal confirmed the non-receivability of his application for revision of the Judgment of the former Administrative Tribunal by the UNDT and made no factual findings regarding Mr. Likuyani's claim of unfair dismissal.

13. As to Mr. Likuyani's references to General Assembly resolutions and administrative issuances, the Secretary-General submits that these were available at the time the Appeals Tribunal Judgment was rendered. Moreover, Mr. Likuyani fails to explain how these legal instruments constitute new decisive facts.

14. Mr. Likuyani fails to demonstrate the discovery of any new decisive facts unknown to him or to the Appeals Tribunal at the time of the Appeals Tribunal Judgment warranting its revision. The Secretary-General requests that the Appeals Tribunal dismiss the application in its entirety.

Considerations

15. Article 11(1) of the Statute of the Appeals Tribunal, which is applicable here, states:

> 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 which was, at the time the judgement was rendered, unknown to the Appeals Tribunal and to the party applying for revision, always provided that such

17. In the instant case, the Appeals Tribunal Judgment was issued on 28 March 2013. The application for revision was filed on 19 October 2014, more than six months beyond the time limit. Mr. Likuyani's application for revision is therefore not receivable *ratione temporis*.

Judgment

18. The application is dismissed.

Original and Authoritative Version: English

Dated this 30th day of October 2015 in New York, United States.

(Signed)	*(Signed)*	*(Signed)*
Judge Weinberg de Roca, Presiding	Judge Adinyira	Judge Simón

Entered in the Register on this 18th day of December 2015 in New York, United States.

(Signed)

Weicheng Lin, Registrar