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UNITED NATIONS DISPUTE TRIBUNAL

Case No. 2017/01  
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Before: Judge Thomas Laker

Registry: Geneva

Registrar: René M. Vargas M.

MANOHARAN  
CHANDRAN  
SHARMA  
SUBRAMANIAN  
NAIK  
SIDDIQUI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS




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SUMMARY JUDGMENT

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Counsel for Applicant:  
Self-represented

Counsel for Respondent:

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**Subject: New Delhi (India) local salaries**



## Article 2

1. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Secretary-General as the Chief Administrative Officer of the United Nations:

(a) To appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment.

8. The Tribunal notes that the Appeals Tribunal recently recalled the definition of an administrative decision in its judgement *Alvarez* 2013-UNAT-304, by quoting the definition developed by the former Administrative Tribunal of the United Nations in Judgement *An rono* No. 1157 (2003), namely that:

[i]t is acceptable by all administrative law systems, that an "administrative decision" is a unilateral decision taken by the administration in a precise individual case (individual administrative act), which produces direct legal consequences to the legal order. Thus, the administrative decision is distinguished from other administrative acts, such as those having regulatory power (which are usually referred to as rules or regulations), as well as from those not having direct legal consequences. Administrative decisions are therefore characterized by the fact that they are taken by the Administration, they are unilateral and of individual application, and they carry direct legal consequences.

9. The Tribunal further recalls its recent Judgment *Ngir* UNDT/2014/026, in which it held with respect to the decision to freeze salary scales that:

[the] decision is of a general order, in that it concerns all eligible General Service staff and National Officers in Bangkok on board prior to 1 March 2012. As such, the circle of persons to whom the salary freeze applies is not defined individually but by reference to the status and category of these persons within the Organization, at a specific location and at a specific point in time. Moreover, the decision will apply for a duration which, at the time it was taken and as at today, cannot be determined. Indeed, nobody can predict when the gap flagged by the survey will be closed, hence the actual duration of the salary freeze is unknown ... Accordingly, the Tribunal concludes that in applying the test of *An rono*, the decision to freeze existing salary scales ... does not constitute an administrative decision for the purpose of art. 2.1(a) of the Tribunal's Statute.

10. The Tribunal finds that Judgement *no. 2011/01272* and the present application deal with identical matters. Indeed, the main facts of *no. 2011/01272* are summarized in the above-referenced Judgment of the Dispute Tribunal as follows:

17. The 2011 Comprehensive Local Salary Survey was conducted from June to December 2011.

18. On 10 January 2012, an [Local Salary Survey Committee ("LSSC")] meeting was held, to consider and sign the LSSC report prepared by the salary survey specialists, by 11 January 2013, for presentation to the Headquarters Salary Steering Committee. The results of the survey indicated that United Nations salaries for the General Service and National Officer categories were higher than those of the retained comparators, by 27.2% and 41.4% respectively.

19. On 13 January 2012, the findings of the salary survey specialists were presented to the Headquarters Salary Steering Committee, which unanimously approved the survey results and recommended freezing of salaries for staff members already on board and the implementation of secondary salary scales for staff member recruited after 1 March 2012.

20. The [OHRM] promulgated the salary survey results on its website on 6 February 2012, indicating that the salary scale applicable to staff already on board would be frozen "until the gap is closed", whereas secondary salary scales would be applied to staff recruited on or after 1 March 2012.

11. Judgment *no. 2014-UNAT-410* was appealed, and this Tribunal decided to suspend its proceedings in the present case until the outcome of said appeal was known.

12. On 26 February 2015, the Appeals Tribunal, in its public announcement of the outcome of its 2015 spring session, dismissed the appeal and upheld the above referenced Dispute Tribunal Judgement.

13. It follows from the public announcement that the receivability findings of Judgment *no. 2014-UNAT-410* UNDT/2014/026 were confirmed without reservation by the Appeals Tribunal (Case No. 2015-UNAT-526). Considering that the Dispute Tribunal should "recognize, respect and abide by the Appeals Tribunal's jurisprudence" (*Interim Order* 2014-UNAT-410), it cannot but reiterate that the decision to freeze the existing salary scales and to review downward allowances did not constitute an administrative decision for the purpose of art. 2.1(a) of its Statute. The present applications are therefore not receivable, *ratione materiae*.

14. The above is a matter of law, which may be adjudicated even without serving the application to the Respondent for reply, and even if it was not raised

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**Conclusion**

**16. In view of the foregoing, the Tribunal DECIDES:**

**The applications be rejected.**

(*Signature*)

**Judge Thomas Laker**

**Dated this 24<sup>th</sup> day of March 2015**

**Entered in the Register on this 24<sup>th</sup> day of March 2015**

(*Signature*)

**René M. Vargas M., Registrar, Geneva**