



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Awe

(Applicant)

v.

Secretary-General of the United Nations

(Respondent)

**JUDGMENT ON APPLICATION FOR INTERPRETATION
OF JUDGMENT**

application challenging the Administration's actions with respect to the FFP's findings against Ms. Yasin and the failure to afford him an effective remedy.

5. On 18 November 2016, the United Nations Dispute Tribunal (UNDT) in Nairobi issued Judgment No. UNDT/2016/207 in the case concerning Ms. Yasin. The application was dismissed because the UNDT found it "premature since no final administrative decision ha(d) been taken in relation to the complaint against Ms[.] Yasin".¹

6. On the same day, the UNDT issued Judgment No. UNDT/2016/206. The Dispute Tribunal reviewed the manner in which Mr. Awe's complaint of harassment and abuse

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14. On 1 October 2017, Mr. Awe requested interpretation of Judgment No. 2017-UNAT-774 and the Secretary-General submitted his comments on Mr. Awe's application on 3 November 2017.

Submissions

Mr. Awe's Application

15. Mr. Awe requests that the Appeals Tribunal clarify whether the retraction of the comments regarding Mr. Awe from the SMT meeting minutes was to be sent to those who attended the meeting or whether it was also to be sent to all those who were found to have had the minutes forwarded to them. This clarification is necessary in light of "the Administration's decision to unilaterally refuse to fully comply with the [Appeals Tribunal J]udgment by applying its discretion, in a manner convenient to it, without reverting to [the Appeals Tribunal]". In a different case before the UNDT (Case No. UNDT/NBI/2017/060, *Awe v. Secretary-General of the United Nations*), the Secretary-General inaccurately claims that he complied with this aspect of the Appeals Tribunal's ruling.

16. The Secretary-General did not send the retraction of the comments made regarding Mr. Awe to Ms. Petra Mikulasova, one of the participants in the meeting. In his reply to the above-mentioned case before the UNDT, the Secretary-General explained that the reason for not sending the retraction to Ms. Petra Mikulasova was that she had separated from the Organization. Mr. Awe requests that the Appeals Tribunal clarify its ruling "with respect to the Administration's decision to unilaterally refuse to fully comply with the [Appeals Tribunal] judgment by applying its discretion without reverting to the [Appeals Tribunal]".

17. Mr. Awe requests that the Appeals Trib

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is necessary “to avoid a situation where the Administration misleads the UNDT as it reviews another matter before it”.

The Secretary-General’s Comments

19. Clarification is not required as to whether the retraction of the comments regarding Mr. Awe was to be sent to those who attended the SMT meeting, or whether it was also to be sent to all those who were found to have had the minutes forwarded to them. Thus far, a retraction has been sent to meeting participants. The Secretary-General confirms that the meeting participants as well as the further recipients of the meeting minutes, including the section chiefs, will be sent the retraction and will be alerted that the FFP found no basis to support the damaging comments made against Mr. Awe, as required by the Appeals Tribunal Judgment.

20. As to Mr. Awe’s request for clarification on whether the retraction should have also been sent to Ms. Petra Mikulasova, the Secretary-General notes that she had separated from the Organization in January 2015. Because Ms. Mikulasova is no longer a staff member, she is no longer subject to the authority of the Secretary-General, and it would not be appropriate to engage her with official business of the Organization. Moreover, given such status, Ms. Mikulasova no longer has the capacity to affect Mr. Awe’s professional or personal status within the Organization.

21. Turning to Mr. Awe’s request that the Appeals Tribunal confirm that the award of USD 5,000 to him was to be made within 60 days of the UNDT judgment becoming executable, the Secretary-General submits that the Appeals Tribunal was clear on this issue. Mr. Awe was to be paid USD 5,000 plus interest calculated at the US prime rate from 18 November 2016 until the date of payment. If payment is not made within 60 days of the issuance of the written Appeals Tribunal Judgment (i.e., by 4 November 2017), additional interest will be payable,

The monetary award made to Mr. Awe thus addressed any harm suffered by Mr. Awe from the unsubstantiated comments made by both Mr. Rutgers and Ms. Yasin.

23. To the extent that certain grounds overlap with the basis for claims that Mr. Awe now makes before the UNDT with regard to Ms. Yasin, the Secretary-General understands that the USD 5,000 award ultimately addresses certain aspects of Mr. Awe's case concerning Ms. Yasin. This aspect of the Appeals Tribunal Judgment and its application to the case regarding Ms. Yasin that is currently pending before the UNDT is not appropriately addressed in a request for interpretation of the Appeals Tribunal Judgment relating to Mr. Rutgers.

24. The Secretary-General requests that the Appeals Tribunal dismiss Mr. Awe's request for interpretation of the Appeals Tribunal Judgment.

Considerations

25. Under its statutory framework, the Appeals Tribunal has authority to decide on applications for interpretation of a judgment previously issued by the Appeals Tribunal. Article 11(3) of the Appeals Tribunal Statute reads: "Either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of the judgement."

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Whether the retraction of the comments regarding Mr. Awe from the SMT meeting minutes was to be sent to those who attended the meeting or whether it was also to be sent to all those who were found to have had the minutes forwarded to them

28. We do not admit Mr. Awe's application on this point because there is no unclarity or ambiguity in our Judgment on this point. By affirming the UNDT's order "to remove the offending references in the minutes and to write to all recipients to inform them of the FFP's findings"⁸ we clearly and unambiguously stated that such a retraction has to be sent to everybody who received the minutes.

Whether a corrected version of the minutes was to be sent to Ms. Petra Mikulasova, a former staff member

29. As neither in the UNDT's order nor in our Judgment there is any exception or restriction to the effect that the SMT meeting minutes should not be forwarded to former staff members

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Judgment No. 2018-UNAT-827

Judgment

35. The application for interpretation of Judgment No. 2017-UNAT-774 is admitted in part. We offer the following interpretation of Judgment No. 2017-UNAT-774:

36. The Secretary-General is ordered to send a corrected version of the meeting minutes and of the FFP's findings to all the recipients of the 22 January 2014 meeting minutes, including Ms. Mikulasova.

37. Judgment No. 2017-UNAT-774 does not address the question of whether Mr. Awe can request disciplinary actions against Ms. Yasin or whether he can claim compensation for procedural errors in case such actions have not been undertaken. These issues are the subject of Mr. Awe's application to the UNDT, Case No. NBI/2017/060.

38. Judgment No. 2017-UNAT-774 finally settles Mr. Awe's claims for compensation for loss of reputation and professional standing with regard to the 22 January 2014 meeting and its minutes including any actions and wrongdoings by Ms. Yasin.

39. Mr. Awe's application for interpretation on all remaining issues is not admissible.

Original and Authoritative Version: English

Dated this 22nd