



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2024-UNAT-1420

Daljeet Singh Bagga
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT

Before:	Judge Kanwaldeep Sandhu, Presiding Judge Nassib G. Ziadé Judge Graeme Colgan
Case No.:	2023-1819
Date of Decision:	22 March 2024
Date of Publication:	29 April 2024
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Amanda Stoltz

6. However, on 24 April 2023, Mr. Bagga was informed of the contested decision.⁵ The Secretary of the UNSPC advised him as follows:

I wish to inform you that the United Nations Staff Pension Committee (UNSPC), at its 344th meeting held on 12 April 2023, determined that you are incapacitated for further service

a8.1 te oncosuenl y21.1 (-)1223 (e)5.2 (n)4.7 t le ol a i s-2112)31 and (f)281(e)123(u)74.4 (e)5.2 (f)82.3 i18
d a12.1 baibhe45.2 (n)-832 (e45.2 fs)19.3 i w58.2 i67.9 h4514 (c)04.7 t fn

jurisdiction of the United Nations Appeals Tribunal”.⁸ Accordingly, the Dispute Tribunal held it had no jurisdiction to undertake a judicial review of the alleged contested decision.

Submissions

Mr. Bagga’s Appeal

9. Mr. Bagga requests that the Organization show some compassion and understanding towards his problems and maintain his full pay from September 2022 until 31 August 2023. In the alternative, he requests that, for the period between April 2023 and 31 August 2023, the Organization should consider paying him an indemnity instead of his salary, and increase his pay from half pay to full pay from September 2022 to April 2023.⁹ The Organization is required to place him on sick leave with either full pay or half pay pending a decision on his claim under Appendix D of the Staff Rules governing compensation in the event of death, injury or illness attributable to the performance of official duties on behalf of the United Nations.

10. Mr. Bagga argues that he had not asked or opted to receive a disability benefit. The Secretariat had taken the contested decision with the Medical Services Division and the Executive Office. In his previous communication with the Human Resources Department, he had informed them that, as a veteran United Nations peacekeeper, he was not interested in the disability benefit. His goal was to recover and return to work. In 2022, while his claim under Appendix D for work-related illnesses was pending, he suffered further health issues. The management of the Human Resources Department and the Medical Services Division were aware of his medical condition but did not approve additional sick leave. He says that his placement on disability has caused him tremendous hardship, stress, and agony.¹⁰

11. Mr. Bagga contends that having served the Organization for 30 years with distinction, he was treated unfairly just a few months before retirement. The Dispute Tribunal did not bother to provide guidance on his case. The judge failed to consider that he was self-represented. The UNDT was dismissive and arrogant towards his application. Likewise, the Management Evaluation Unit

⁸ *Ibid.*, para. 3.

⁹ Mr. Bagga submits that from September 2022 to April 2023, he was on sick leave with half pay.

¹⁰ Mr. Bagga mentions adverse effects on his recovery, visa status, relocation plans, education of his children, home lease arrangements and income. He also provides an overview of his illnesses.

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2024-UNAT-1420

identify the administrative decision that is contested. As correctly identified by the UNDT, the contested decision was the 24 April 2023 decision taken by the UNSPC concerning Mr. Bagga's incapacity for further service and entitlement for a disability benefit.

17. The Secretary-General argues that the appeal fails to demonstrate any error warranting intervention by the UNAT. In his appeal, Mr. Bagga largely repeats the submissions presented before the UNDT. His allegations against the MEU and the UNDT are without merit. It is the responsibility of every staff member to be aware of the applicable procedures in the context of the administration of justice at the United Nations. Nevertheless, the Administration had made available comprehensive guidance materials, including the options for both informal and formal dispute resolution. In addition, Mr. Bagga's exchange with the MEU, attached to his appeal as Annex 3, post-dated the issuance of the impugned Judgment and only serves to further demonstrate the non-receivability of his application. In sum, he makes no attempt to identify any error in the impugned Judgment.

Considerations

18. The Appeals Tribunal's jurisdiction to review the decisions of

Pension Board and ultimately to the General Assembly.¹² As the Secretary-General does not have authority over the management of the Pension Fund, the procedures involving management evaluation by the Administration and adjudication of the application before the Dispute Tribunal do not apply to decisions of the Pension Fund or the Board.

21. The Regulations set out the procedure for appealing the decisions of the Pension Fund.

22. Generally, the first step to challenging a decision of the Pension Fund is to request a review of the decision by the UNSPC. The Appeals Tribunal has previously held that this review is similar to management evaluation and the request is a mandatory first step in the appeal process.¹³ This requirement assures that there is an opportunity to quickly resolve a person's complaint or dispute without the need for judicial intervention.¹⁴

23. When the outcome of this review is not satisfactory, the staff member can ordinarily appeal the UNSPC's decision to the Standing Committee acting on behalf of the Board. The Standing Committee plays a role similar to that of the Dispute Tribunal, as first instance to the case. Subsequently, an appeal to the Appeals Tribunal against this decision of the Standing Committee can be filed.¹⁵ There is no authority for management evaluation by the Administration or receiving an application by the Dispute Tribunal.

24. Section K of the Regulations outlines the internal review and appeal procedures for the decisions of the Pension Fund. It establishes that the review shall be initiated by delivery to the Secretary of the UNSPC, or to the Secretary of the Pension Board if the review is by the Standing Committee, of a notice as follows:

K.5. A review shall be initiated by delivery to the secretary of the staff pension committee, or to the Secretary of the Board if the review is by the Standing Committee, within ninety days of receipt of notification of the disputed decision, of a notice in writing stating the points of fact or of law contained in the decision which are disputed, and the grounds upon which the request for the review is founded; the staff pension

¹² *Terragnolo v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-517, para. 27 (internal citation omitted).

¹³ *Richards v. United Nations Joint Staff Pension Board*, Judgment No. 2020-

committee, or the Standing Committee as the case may be, may nevertheless, upon good cause shown, accept for review a request notice of which was delivered after the expiry of the period prescribed above.

25. Section K.8(a) provides that the subsequent appeal of the UNSPC's decision taken upon review shall be initiated by delivery to the Secretary of the Board, of a notice as follows:

An appeal to the Standing Committee, acting on behalf of the [Pension] Board, from the decision of a Staff Pension Committee taken upon review shall be initiated by delivery to the Secretary of the [Pension] Board, within sixty days of notification of the decision appealed against, of a notice in writing stating the points of fact or of law contained in the decision which are disputed, and the grounds upon which the appeal is founded; the Standing Committee may nevertheless, upon good cause shown, agree to consider an appeal notice of which was delivered after the expiry of the period prescribed above.

- 26.

Article 2(9) of the Appeals Tribunal Statute restricts our jurisdiction over individual staff pension matters to reviewing the decisions of the Standing Committee.

31. However, Mr. Bagga may have misinterpreted the Dispute Tribunal when it stated in paragraph 3 of the Judgment: “Instead, decisions of UNSPC (United Nations Staff Pension Committee) fall under the jurisdiction of the United Nations Appeals Tribunal (...)”. He could have understood that his mistake was coming to the Dispute Tribunal instead of the Appeals Tribunal. He could have misinterpreted this statement that he should have filed with the Appeals Tribunalals-0.6 (. (T)-4.6 (r)-7 (i)6.1 (h)-4 (2e)-5.)8.9 (e)-3.1 (D)2.1 yy50.6 (P)8.2l isve(2.9 (i)-8.5 (s

THE UNITED NATIONS APPEALS TRIBUNAL