



THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2011-UNAT-154

United Nations Appeals Tribunal (Appeals Tribunal) to (a) order the Secretary-General to produce certain documents; (b) rescind the decisions of the Secretary-General; (c) refer the case to the Secretary-General for possible action to enforce accountability pursuant to Article 9(5) of the Statute of the Appeals Tribunal; and (d) find that the restriction of access to the UNOV premises breached United Nations policies, denied him due process and that the Administration's failure to provide reasons for the restriction breached several United Nations administrative instructions.

Secretary-General's Answer

11. The Secretary-General submits that the Dispute Tribunal correctly concluded that the contested decision did not infringe Sims' terms of appointment as a former staff member or the rights recognized to retired staff members, and that the appeal is therefore not receivable.

12. The Secretary-General also submits that Sims has not identified any errors made by the Dispute Tribunal that would require a reversal of its decision to reject Sims' application.

Considerations

13. Article 2 of the UNDT Statute reads:

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. The terms "contract" and "terms of appointment" include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance;

(b) To appeal an administrative decision imposing a disciplinary measure;

(c) To enforce the implementation of an agreement reached through mediation pursuant to article 8, paragraph 2, of the present statute.

2. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation,

where the decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

3. The Dispute Tribunal shall be competent to permit or deny leave to an application to file a friend-of-the-court brief by a staff association.

4. The Dispute Tribunal shall be competent to permit an individual who is entitled to appeal the same administrative decision under paragraph 1 (a) of the present article to intervene in a matter brought by another staff member under the same paragraph.

5. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed against a specialized agency brought into relationship with the United Nations in accordance with the provisions of Articles 57 and 63 of the Charter of the United Nations or other international organization or entity established by a treaty and participating in the common system of conditions of service, where a special agreement has been concluded between the agency, organization or entity concerned and the Secretary-General of the United Nations to accept the terms of the jurisdiction

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2011-UNAT-154