



Judgment No. 2018-UNAT-826

Counsel for Ms. Ocokoru:

Self-represented

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2018-UNAT-826

1. Full Re-instatement on my Job with all the Terminal Benefits as contained in [Judgment No. UNDT/2015/004] and (...) [Judgment No. 2015-UNAT-604].
2. As a bonafide Employee of the United Nations, Court should help me in my getting paid the following:
 - a) Compensation/Damages for the time I have spent when I was forced out of my Office.
 - b) Salary arrears should be paid in total including Pension Contributions from

Judgment) and not 30 July 2012 (the date of her separation). The difference in dates may render Ms. Ocokoru entitled to additional compensation. Second, the UNDT ordered payment of interest, which appears to have not been paid to Ms. Ocokoru. The Secretary-General submits that the Organization will ensure that the UNDT Judgment is executed in full by promptly paying Ms. Ocokoru the difference in salaries at the 2015 and 2012 rates, and with interest.

Considerations

8. In Judgment No. UNDT/2015/004 (UNDT Judgment), the UNDT ordered the rescission of the administrative decision to separate Ms. Ocokoru from service and her reinstatement or, in the alternative, compensation equivalent to two years' net base salary. It further awarded three months' net base salary as compensation for the procedural irregularity and three months' net base salary for the substantive irregularity.

9. The Secretary-General appealed the UNDT Judgment. The Appeals Tribunal, in its Judgment No. 2015-UNAT-604 (Appeals Tribunal Judgment), decided that the Secretary-General's appeal was filed out of time and was not receivable.

10. Ms. Ocokoru now applies to the Appeals Tribunal for an order for execution of the Appeals Tribunal Judgment, in which the Appeals Tribunal did not make any order affecting the UNDT Judgment, but simply decided that the Secretary-General's appeal was not receivable. The Appeals Tribunal Judgment is, therefore, not an executable judgment.

11. Since the Appeals Tribunal did not receive the appeal, the case does not fall within the jurisdiction of the Appeals Tribunal. It follows that the UNDT Judgment remains in force. Nothing in the Appeals Tribunal Judgment interferes with the validity of the UNDT Judgment.

12. The UNDT Judgment remains within the jurisdiction of the Dispute Tribunal and became executable following the expiry of the time provided for appeal in the Statute of the Appeals Tribunal. An application for its execution is governed by Article 11(3) of the UNDT Statute and Article 32 of the UNDT Rules of Procedure.

13. Article 11(3) of the UNDT Statute provides:

... The judgements and orders of the Dispute Tribunal shall be binding upon the parties, but are subject to appeal in accordance with the statute of the United Nations

Appeals Tribunal. In the absence of such appeal, they shall be executable following the expiry of the time provided for appeal in the statute of the Appeals Tribunal. Case management orders or directives shall be executable immediately.

14. Article 32 of the UNDT Rules of Procedure provides:

... Judgements of the Dispute Tribunal shall be binding on the parties, but are subject to appeal in accordance with the statute of the Appeals Tribunal. In the absence of such appeal, it shall be executable following the expiry of the time provided for appeal in the statute of the Appeals Tribunal.

... Once a judgement is executable under Article 11.3 of the Statute of the Dispute Tribunal, either party may apply to the Dispute Tribunal for an order for execution of the judgement if the judgement requires execution within a certain period of time and such execution has not been carried out.

15. Ms. Ocokoru is therefore in error in applying to the Appeals Tribunal for execution of

17. For the above reasons, we hold that the Appeals Tribunal is not competent to hear and pass judgment on the present application.

Judgment

18. The application for execution of judgment is not receivable.

Original and Authoritative Version: English

Dated this 22nd day of March 2018 in Amman, Jordan.

(Signed)

Judge Lussick, Presiding

(Signed)

Judge Thomas-Felix

(Signed)

Judge Halfeld

Entered in the Register on this 23rd