



1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Walter Gehr against Judgment No. UNDT/2012/084, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 4 June 2012 in the case of *Gehr v. Secretary-General of the United Nations*. Mr. Gehr appealed on 31 July 2012, and the Secretary-General answered on 28 September 2012.

15. The application before the UNDT was one filed on 4 March 2012 contesting the Secretary-General's decision not to finalise his performance appraisal for the period from 1 April 2009 to 31 March 2010.

16. The UNDT noted that a rebuttal panel subsequently issued its report on 23 March 2012, whereby Mr. Gehr's performance appraisal was finalised. The UNDT also noted that on 28 March 2012, Mr. Gehr filed another application challenging the outcome of the rebuttal process and complaining of the delay in finalising his performance appraisal.

17. The UNDT decided that:

Having noted that the pleas put forward in the second application include those made in the first one and that the decision contested in the first application has been superseded by the issuance of the rebuttal panel's report, the Tribunal is of the view that the application which forms the subject of the present Judgment is moot.

18. The UNDT held that Mr. Gehr's application filed on 4 March 2012 was thus irreceivable.

19. Mr. Gehr challenges the UNDT's decision on the basis that it "committed *an error of law* and *failed to exercise the jurisdiction vested in it*". (Emphasis in original.) In particular, Mr. Gehr submits that the UNDT "failed to identify any grounds of irreceivability in accordance with Article 8 of the UNDT's Statute".

20. Obviously, the decision not to finalise Mr. Gehr's performance appraisal ceased to exist when the rebuttal panel issued its report. There was thus no administrative decision on which the UNDT was competent to pass judgment in terms of Articles 2 and 8 of the UNDT Statute.

21. We can find no error in the UNDT's finding that the first application before it was moot and thus not receivable.

22. This finding by the UNDT was sufficient to dispose of the case before it, and we note that the UNDT obviously did not consider it necessary to rule on another submission by the Secretary-General that Mr. Gehr's application was not receivable because he had failed to submit the contested administrative decision for management evaluation prior to applying to the UNDT.

23. Mr. Gehr raised other points in his appeal concerning the Secretary-General's delay and "the lack of due process and bad faith", which are not relevant to this appeal.

24. We consider that there were no grounds whatsoever for bringing this appeal. The appeal has no merit at all and cannot succeed.

25. The fact that Mr. Gehr's first application was moot should have been obvious to him. We find that in bringing this appeal, Mr. Gehr has manifestly abused the appeals process.

Original and Authoritative Version: English

Done in New York, United States.

(Signed)

Judge Lussick, Presiding
28 June 2013

(Signed)

Judge Weinberg de Roca
21 June 2013

(Signed)

Judge Adinyira
21 June 2013

Entered in the Register on this 26th day of August 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar