



Judgment No. 2013-UNAT-389



Counsel for Mr. Reid:

Self-represented

Counsel for Secretary-General:

Zarqaa Chohan

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Timothy Bancroft Reid against Judgment No. UNDT/2012/188, rendered by the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in Nairobi on 3 December 2012 in the case of *Reid v. Secretary-General of the United Nations*. Mr. Reid appealed on 8 February 2013 and the Secretary-General answered on 25 March 2013.

Facts and Procedure

2. The facts established by the Dispute Tribunal in this case, which are not contested, read as follows:¹

... [Mr. Reid] filed [his] Application on 7 December 2011, alleging breach of contract and discrimination, following his [2007] application for the position of Chief of Staff (...) with the United Nations Mission in the Central African Republic and Chad (MINURCAT), which he was told he was selected for but was never issued a letter of appointment.^[2] [Mr. Reid] submits that, following several queries on the cause of the letter being held up, he came to find out that the position was being offered to a female candidate who was also a friend of the [newly-appointed] Special Repr

of appointment by the SRSG. Subsequently, [he] was aware of the decision to appoint another candidate to the post in question in June 2008. Still later, circa April 2009, and from [his] own submissions, while in New York, he received what he called a 'verbal

Accordingly, the application was dismissed as time-barred.

Submissions

Mr. Reid's Appeal

5. Mr. Reid notes that the Dispute Tribunal erred in fact when it referred to the successful candidate as a "female ... friend" of the SRSG. The appointee was, in fact, male.

6. He submits that the UNDT erred in law when it found his case to be time-barred, as it applied the deadlines established by Staff Rule 11.2(c). In fact, he argues that, at the time of the events in his case, the relevant rule was Staff Rule 11.2(a), which provided that the time limit for requesting administrative review commenced upon receipt of a written decision.

7. Mr. Reid argues that the Dispute Tribunal did not properly address the arguments he adduced on receivability or his right to an effective remedy.

8. He requests that the UNDT Judgment be vacated in order that his case can be considered on its merits.

The Secretary-General's Answer

9. The Secretary-General submits that the UNDT was correct in finding Mr. Reid's application time-barred and that it "properly declined to exercise its discretion to suspend or waive deadlines in the ... case".

10. He further submits that Mr. Reid has not established any reversible error on the part of the UNDT.

11. The Secretary-General requests the Appeals Tribunal to affirm the UNDT Judgment and to reject the appeal in its entirety.

Considerations

12. As a preliminary matter, Mr. Reid's request for an oral hearing is being denied because the Appeals Tribunal considers that it would not assist in deciding the case.

13. In the instant case, Mr. Reid became aware of the decision not to appoint him on or around 29 February 2008. In the absence of a written notice, the Appeals Tribunal accepts Mr. Reid's assertion and fixes that date for the purpose of establishing his deadlines to file before the UNDT.

14.

Original and Authoritative Version: English

Dated this 17th day of October 2013 in New York, United States.

(Signed)

Judge Weinberg de Roca,
Presiding

(Signed)

Judge Simón

(Signed)

Judge Lussick