



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

**Jahnsen Lecca
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT



JUDGE RICHARD LUSSICK, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Ms. Aixa Irma Antonia Jahnsen Lecca against Judgment No. UNDT/2012/206, rendered by the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in Geneva on 31 December 2012 in the case of *Jahnsen Lecca v. Secretary-General of the United Nations*. Ms. Jahnsen Lecca appealed on 4 April 2013 and the Secretary-General answered on 7 June 2013.

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Facts and Procedure

2. At the time of the events, Ms. Jahnsen Lecca was a Trial Support Assistant at the G-5 level with the Office of the Prosecutor (OTP), the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. On 7 June 2011, she removed an unlocked bicycle belonging to another ICTY staff member, without the owner's authorization, from the ICTY bicycle parking area and took it to the atrium of the KPMG building (KPMG atrium), a nearby commercial building approximately 50 meters away from the ICTY main building, and left it there.

3. Following receipt of a complaint by the owner of the missing bicycle, on 14 June 2011,

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knowingly taken somebody's bicycle only came two full days later on 16 June 2011. The Panel does observe that Ms. Jahnsen Lecca appeared to genuinely regret having taken the actions and having attempted to mislead the Panel.

8. On 23 November 2011, the ICTY Registrar referred the case of Ms. Jahnsen Lecca to the Assistant Secretary-General for Human Resources Management for possible disciplinary proceedings, as he concluded that there was sufficient evidence indicating that Ms. Jahnsen Lecca had engaged in wrongdoing that could amount to misconduct. The fact-finding panel's report was attached. In the referral memorandum, the ICTY Registrar added that Ms. Jahnsen Lecca was "an extremely hard worker and ha[d] the respect of all persons with whom she work[ed]", and that the OTP was of the view that, considering that there had been no other incidents of that nature and Ms. Jahnsen Lecca was a single mother and the sole source of support for her child, administrative measures (such as a warning) might be sufficient.

9. On 8 December 2011, the Office of Human Resources Management (OHRM) charged Ms. Jahnsen Lecca with misconduct, specifically with taking another staff member's property without her authorization, in violation of Staff Regulation 1.2(b) and (f). Ms. Jahnsen Lecca was requested to respond to the charges within two weeks. However, though she was granted extensions of time on 16 April 2012, 15 May 2012 and 4 June 2012 "given [her] medical condition", Ms. Jahnsen Lecca failed to submit comments on the allegations of misconduct against her.

10. By letter dated 13 August 2012, Ms. Jahnsen Lecca was informed of the decision to separate her from service, with compensation in lieu of notice and with termination indemnities, on the basis that her contentions that she had merely borrowed the bicycle and had intended to return it were contradicted by her actions, that she returned the bicycle only after nine days and after she had been interviewed twice by the fact-finding panel, and that she did not take another staff member's bicycle on an impulse, but did so "with the necessary intent". It was the view of the Secretary-General that Ms. Jahnsen Lecca's conduct showed a lack of integrity and the disciplinary measuMs. Jahnd thendedo

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20. The Secretary-General further submits that, contrary to Ms. Jahnsen Lecca's assertion that she was not informed of the specific charge of theft, theft was the central issue of the case and she was consistently informed of the allegation.

21. The Secretary-General finally submits that Ms. Jahnsen Lecca has not provided any new evidence or arguments to show that the Dispute Tribunal made any error in determining that the disciplinary sanction of separation from service was warranted in the present case, and that she has thus failed to discharge the burden of proving that the Judgment was defective. The Secretary-General therefore requests that this Tribunal affirm the UNDT Judgment and reject the appeal in its entirety.

without authorization, a staff member's property". Contrary to her claims, Ms. Jahnsen Lecca had never at any stage been left in doubt as to the alleged circumstances of her misconduct. The OHRM memorandum of 8 December 2011 made it clear that the allegation of misconduct concerned the theft of a bicycle. The report of th

Judgment

29. The appeal is dismissed and the Judgment of the UNDT is affirmed.

Original and Authoritative Version: English

Dated this 2 April 2014 in New York, United States.

(Signed)

Judge Lussick, Presiding

(Signed)

Judge Faherty

(Signed)

Judge Adinyira

Entered in the Register on this 13th day of May 2014 in New York, United States.

(Signed)

Weicheng Lin, Registrar