



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Chaaban
(Applicant)

v.

Commissioner-General
of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East
(Respondent)

JUDGMENT ON CORRECTION AND REVISION

Before: Judge Sophia Adinyira, Presiding
Judge Rosalyn Chapman
Judge Inés Weinberg de Roca

Case Nos.: 2014-565 & 2014-566

Date: 26 February 2015

Reg

JUDGE SOPHIA ADINYIRA , PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it two applications, one for correction and th

5. Mr. Chaaban appealed to the Appeals Tribunal. He contended that the UNRWA Dispute Tribunal had failed to exercise its jurisdiction in dismissing his application as non-receivable because it was filed four days past the deadline. In his view, the UNRWA Dispute Tribunal should have waived the time limit in his case in the interest of justice. In Judgment No. 2013-UNAT-363, the Appeals Tribunal affirmed the UNRWA DT's time-bar finding. It noted that Mr. Chaaban did not allege any special circumstances that had prevented him from submitting a timely application, but argued that the UNRWA Dispute Tribunal should have waived the time limit for his application given that it had done so, and for a much longer period of time, with respect to the Commissioner-General's late reply.

6. Mr. Chaaban is seeking correction and revision of Judgment No. 2013-UNAT-363.

Submissions

Mr. Chaaban's Applications for Correction and Revision

Correction

7. The Appeals Tribunal made an arithmetical error in its calculation of dates for time limit purposes when it found, in paragraph 16 of the Judgment, that Mr. Chaaban filed his UNRWA Dispute Tribunal application after the time limit had lapsed. This error appeared to be the result of the Appeals Tribunal's reliance on the UNRWA Dispute Tribunal's calculation. It should therefore be corrected so that paragraph 16 reads: "Mr. Chaaban filed his application before the time limit had lapsed".¹

Revision

8. The Appeals Tribunal Judgment is inconsistent with its jurisprudence in *Faraj and Neault*.²

9. According to Faraj and Neault, Mr. Chaaban had 30 days after the Agency's response of 16 March 2009 for filing an appeal, i.e., by 15 April 2009. He filed an appeal on 2 April 2009, within the time limit as per Neault. Judgment No. 2013-UNAT-363 should therefore be revised.

The Commissioner-General's Comments

Correction

10. Mr. Chaaban may not use the correction procedure as a vehicle to challenge the receivability findings of the Appeals Tribunal in his case. The correction procedure is available for the purpose of correcting a non-substantive error resulting from a minor mistake or inadvertence, but not from judicial reasoning or determination.

11. Mr. Chaaban cannot raise at this stage a new argument on receivability alleging a substantial error in the UNRWA Dispute Tribunal Judgment on his case which he failed to present before the Appeals Tribunal prior to the issuance of its Judgment.

Revision

12. Both the UNRWA Dispute Tribunal and the Appeals Tribunal had knowledge of the Agency's 16 March 2009 response to Mr. Chaaban's request for administrative review and issued their respective judgments accordingly. Mr. Chaaban also had that knowledge. However, he failed to make an argument about the Agency's response re-setting the time limit for filing his appeal. Mr. Chaaban's failure to raise this argument was due to his own negligence and it cannot be considered as the basis for revision of the Judgment.

13. None of the grounds for revision cited by Mr. Chaaban constitute a "decisive fact" within the meaning of Article 11(1) of the Statute of the Appeals Tribunal (Statute) or Article 24 of the Rules of Procedure of the Appeals Tribunal (Rules). Mr. Chaaban merely disagrees with the decision of the Appeals Tribunal and seeks to re-argue his appeal.

14. Mr. Chaaban's applications for correction and revision should be rejected.

Considerations

15.

19. An application seeking review of a final judgment rendered by the Appeals Tribunal can only succeed if it fulfils the strict and exceptional criteria established under Article 11 of its Statute.³

20. Mr. Chaaban does not show any clerical or arithmetical mistake to justify the correction of Judgment No. 2013-UNAT-363. Nor has he identified any decisive fact unknown at the time of the Appeals Tribunal Judgment to warrant its revision.

Judgment

21. The applications for correction and revision are dismissed.

³ Al-Mulla v. Secretary-General of the United Nations , Judgment No. 2013-UNAT-394, para. 14, citing Beaudry v. Secretary-General of the United Nations , Judgment No. 2011-UNAT-129.

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2015-UNAT-497