



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

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Judgment No. 2018-UNAT-863

**Afawubo  
(Appellant)**

**v.**

**Secretary-General of the United Nations**

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Counsel for Appellant: Self-represented

Counsel for Secretary-General: Wambui Mwangi

**JUDGE MARTHA HALFELD, PRESIDING**

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed in relation to Judgment No. 884, *Afawubo* (1998) rendered by the former United Nations Administrative Tribunal (former Administrative Tribunal) on 4 August 1998. Mr. Mensah Novito Afawubo filed the appeal on 23 March 2018, and the Secretary-General filed his answer on 12 June 2018.

**Facts and Procedure**

2. Mr. Afawubo entered the service of the Office of the United Nations High Commissioner for Refugees (UNHCR) on 1 June 1984 as a Senior Administrative Assistant at the G-8 level in Lomé, Togo, where he was employed on a series of short-term appointments.

3. Starting 31 December 1992, Mr. Afawubo was employed as a Programme Officer at the UNHCR Branch Office in Conakry, Guinea. On 1 January 1993, his project personnel appointment at the L-2 level was extended. However, following the post review meeting of the Regional Bureau for Africa, Mr. Afawubo's post was "discontinued", effective 31 December 1993, as a result of the High Commissioner's decision. From 1 January 1994 forward, Mr. Afawubo obtained several short-term contract extensions. Effective 1 August 1994, Mr. Afawubo was reassigned to Bangui, Central African Republic as a Senior Programme Adviser.

4. On 11 July 1994, Mr. Afawubo filed an appeal with the former Joint Appeals Board (JAB)

promotions and the granting of longer term appointments, since Mr. Afawubo's name [was] not listed among those promoted or granted such appointments". It further noted that the circumstances in which Mr. Afawubo had been reassigned away from Conakry did not appear to be sufficiently clarified and that it was the responsibility of the JAB to investigate the circumstances in question. It therefore remanded the case to the JAB for review of all the issues raised by Mr. Afawubo.

7. On 30 December 1998, Mr. Afawubo filed an application with the former Administrative Tribunal in which he requested interpretation and revision of Judgment No. 884, rendered by the former Administrative Tribunal on 4 August 1998.

8. On 26 January 2000, the JAB issued its report on the remanded case (JAB Case No. 381), rejecting the appeal. It found that the decisions to discontinue Mr. Afawubo's post and to reassign him were not tainted by prejudice or improper motivation and that there was no violation of his rights when he was not selected for a longer fixed-term appointment and for promotion at the 1993 session of the Appointments, Promotions and Postings Board (APPB). The JAB was, however, concerned about the fact that Mr. Afawubo had been declared *persona non grata* in his home country and recommended that the Sec(i)3B a promoted

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17. If Mr. Afawubo's case was pending before the former Administrative Tribunal, as Mr. Afawubo claims, in accordance with resolution 63/253 and the Dispute Tribunal Statute, the case would have to be determined by the Dispute Tribunal before the Appeals Tribunal would have jurisdiction to hear and pass judgment on his appeal. The Secretary-General therefore requests that the Appeals Tribunal dismiss Mr. Afawubo's appeal in its entirety as not receivable.

### Considerations

18. As a preliminary matter, Mr. Afawubo's Motion for Leave to File Additional Pleadings is refused. Neither the Appeals Tribunal Statute nor the Appeals Tribunal Rules of Procedure (Rules) provide for an appellant to file an additional pleading after the respondent has filed his answer. Article 31(1) of the Rules and Section II.A.3 of Practice Direction No. 1 of the Appeals Tribunal allow the Appeals Tribunal to grant a party's motion to file additional pleadings only if there are exceptional circumstances justifying the motion.<sup>1</sup> Mr. Afawubo has not demonstrated any exceptional circumstances which would justify the Appeals Tribunal exercising its discretion to allow him to file additional pleadings.

19. As previously stated, Mr. Afawubo filed an application before the former JAB (JAB Case No. 285) which found, in 1996, that the application had not correctly identified the contested administration decision. The JAB therefore made no recommendation and the Secretary-General decided to take no further action in respect of his appeal. This first decision was overruled in 1998 by the former Administrative Tribunal in Judgment No. 884, *Afawubo* (1998), which remanded the case to the JAB for further consideration.

20. In a new report issued on 26 January 2000 (JAB Case No. 381), the JAB rejected Mr. Afawubo's contentions; however, it issued a recommendation to the Secretary-General to rectify a situation where Ms. Afawubo was declared *persona non grata* in his own country. Soon thereafter, the Secretary-General agreed to do so.

21. Following a filing for interpretation and revision of the former Administrative Tribunal Judgment No. 884, a second Judgment by the former Administrative Tribunal was issued in July 2000, rejecting Mr. Afawubo's request to rescind the decision to remand the case to the JAB.

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<sup>1</sup> *Fayek v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-739, para. 7.

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**Judgment**

27. The appeal is dismissed.

Original and Authoritative Version: English

Dated this 29<sup>th</sup> day of June 2018 in New York, United States.

*(Signed)*

Judge Halfeld, Presiding

*(Signed)*

Judge Lussick

*(Signed)*

Judge Thomas-Felix

Entered in the Register on this 10<sup>th</sup> day of August 2018 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar