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

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Judgment No. 2018-UNAT-885



**Rehman  
(Appellant)**

**v.**

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

**JUDGMENT**

Counsel for Ms. Rehman: Self-represented

Counsel for Secretary-General: Amy Wood

**JUDGE RICHARD LUSSICK, PRESIDING.**

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNDT/2018/039/Corr.1, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 15 March 2018, in the case of *Rehman v. Secretary-General of the United Nations*. Ms. Rafia Rehman filed the appeal on 13 May 2018, and the Secretary-General filed his answer on 16 July 2018.

**Facts and Procedure**

2. The following facts are uncontested:<sup>1</sup>

... On 26 January 2016, the Applicant [a former staff member of the United Nations International Children's Emergency Fund (UNICEF)] filed a complaint with [the Office of Internal Audit and Investigation (OIAI)] against her former supervisor, the Chief of the Education Section at UNICEF, [Pakistan Country Office (PCO)], Islamabad ("Chief of the Education Section"), citing UNICEF's Executive Directive on Prohibition of discrimination, harassment, sexual harassment and abuse of authority ("CF/EXD/2012-007"). In her complaint, the Applicant listed various incidents of alleged ill treatment, discrimination, harassment, humiliation and abuse of authority that she allegedly suffered at the hands of the Chief of the Education Section.

... The Applicant also complained that she believed she was a victim of a web of conspiracy and that she was being framed by certain staff members, including the former UNICEF Representative PCO and the Chief of the Education Section, especially in relation to the allegations raised against her with respect to the fraudulent payment of a hotel bill.

... On 21 March 2016, the Applicant filed another complaint requesting an investigation into the former Chief of Human Resources of UNICEF, Islamabad, for abuse of authority and discrimination. The Applicant's complaint contained a list of incidents from 2015 to 2016.

... On 22 March 2016, the Applicant wrote to OIAI seeking information about the status of her 26 January 2016 complaint.

... In an email of 23 March 2016, OIAI replied to the Applicant confirming that her 26 January 2016 complaint would be

complaint that her supervisor had influenced other staff members against her with respect to these fraud allegations. The Investigation Specialist also requested Ms. Rehman to explain how she had received the documentation or on what basis she believed that her former supervisor came up with a “scheme” to “set her up with respect to the fraud allegations. She also noted that this was the first time that Ms. Rehman was reporting being harassed by her former supervisor. On 11 April 2016, Ms. Rehman replied to the Investigation Specialist, providing her with an explanation to the requested information and with accompanying annexes.]<sup>[2]</sup>

... On 12 April 2016, the Applicant wrote to OIAI inquiring about the status of her 21 March 2016 complaint. She received a response on the same day from the Chief of Investigations, OIAI (“COI”) informing her *inter alia* that her 26 January 2016 complaint was time-barred. [The response reads as follows:

As you were notified by my colleague, [Investigation Specialist] the case of allegations of entitlement fraud against you was closed in October 2015, with no further action against you. You have now made counter allegations that you were harassed by your supervisor (...) since 2013 and by the evidence you have put forward in this complaint the matter has been time-barred as per the policy (excerpt below):

*Filing a complaint*

5.10 Any person may file a complaint. No anonymous complaints will be accepted.

5.11 The complaint should be submitted in writing, be signed and dated, to the Director, Office of Internal Audit and Investigations, with a copy to the Director, Division of Human Resources, within six months from the most recent alleged incident.

Thank you for being in touch and good luck with your future endeavours.]<sup>[3]</sup>

... On 13 April 2016, the Applicant replied to the COI expressing her disappointment and frustration with his reply, clarifying the different claims she had filed, explaining why she believed that her claims were not time-barred and asking him to reconsider his decision contained in his email of 12 April 2016.

... On 14 April 2016, the COI replied to the Applicant expressing regret that s.

harassment took place that counts, not the date that you last reported it. The latest case that you have quoted in your emails was 7 October when you were told that your contract would not be renewed. OIAI can see nothing contrary to the fact that your contract was not renewed due to lack of funding.<sup>[4]</sup>

... On 19 and 21 April 2016, the Applicant filed other complaints of harassment and abuse of authority against the former Chief of Human Resources, the Chief of Education Section, the Country Representative and three other staff members, all from UNICEF, PCO.

... On 13 May 2016, the COI, OIAI, wrote to the Applicant regarding her complaints and made some observations on them. [His email reads as follows:

Dear Rafia,

With reference to your allegations of discrimination against [the] Chief of Human [Resources], who has been with UNICEF Pakistan since January 2015. I have now reviewed all of the documents you supplied and have the following observations:

1. You said that your salary grant and funds have been diverted from Gender Thematic Grant to facilitate other staff members who are on [temporary appointment (TA)] contracts and thereby discriminating against you as a programme assistant in the Education Section. Could this have been a legitimate operational decision?
2. On 13 November you had meeting with the Rep. Ms Angela Kearney concerning the renewal of your contract, with detailed discussions. Regardless of minutes not being provided, what was the outcome of that discussion as you understood it?
3. With regards to the positions that you have applied for, the responses to your queries appear to be as they would normally be during a recruitment process, and although I am not in a position to judge your candidacy against other applicants, but looking at the process it seems to have conformed to the usual standards. I see that you have submitted a request for a Management Evaluation of the recruitment process as you feel that your qualifications should have secured you an interview if not the job.
4. The fact that you blame Ms Mitchell specifically for not informing you of the results of the recruitment processes in good time and consider that a deliberate discrimination seems unusual, because as you are aware, the successful applicant would be the first to be notified and only after that person has accepted would the other candidates be told that they were unsuccessful. That process can often take a few weeks.

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<sup>[4]</sup> *Ibid.*, para. 35.

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awarded Ms. Rehman moral damages in the amount of USD 1,000 based on her submission that the improper handling of her complaints has caused her “mental stress and anxiety”.<sup>8</sup> However, the UNDT declined to award moral damages for alleged harm to her reputation, finding that Ms. Rehman had failed to provide evidence of such harm.

4. On 27 April 2018, the Secretary-General submitted an “application for an extension of time limit on specific performance” to the UNDT explaining that due to limited resources available, OIAI, UNICEF would not be able to complete a new examination of Ms. Rehman’s case within the prescribed 60-day time limit. He requested “120 calendar days from the date of issuance of the judgement, or 60 calendar days from the date the judgement will become executable” assuring that the examination would be completed “by 13 July 2018 at the latest”.

### **Submissions**

#### **Ms. Rehman’s Appeal**

5. Ms. Rehman submits that the UNDT erred on questions of fact as it disregarded several important facts which were contained in the submitted documents and had been discussed at

7. Moreover, Ms. Rehman argues that the UNDT failed to take into consideration that the lack of proper information about the outcome and details of the decisions on her complaints had prevented her from pursuing her “proper legal right” to bring a suit in a local court under a Pakistani defamation law against the involved hotel officials who had





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22. Ms. Rehman also alleges in her appeal that the UNDT erred in failing to consider that the delay by OIAI in notifying her of the outcome of her complaints had prevented her from pursuing her “proper legal right” to bring a defamation suit in the national courts of Pakistan. She claims compensation in the amount of USD 500,000.

23. The Secretary-General argues that Ms. Rehman’s claim in this regard is not within the jurisdiction of either the UNDT or the Appeals Tribunal and does not constitute an appealable administrative decision. Citing Article 2(1)(a) of the UNDT Statute, which confers jurisdiction upon the UNDT to hear and pass judgment on an application “[t]o appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment”, the Secretary-General submits that Ms. Rehman does not have a “right” under the terms and conditions of her employment to bring a cause of action in the national courts of Pakistan.

24. The Secretary-General has misinterpreted Ms. Rehman’s claim. The administrative decision contested by Ms. Rehman is the decision of the Secretary-General to allegedly intentionally delay notifying her of the outcome of her complaints. Her resulting inability to bring a suit in the national courts of Pakistan contrac

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into allegations of fraud. We therefore find that she has not established any justification for the Appeals Tribunal's interference with the UNDT decision.

28. Lastly, Ms. Rehman requests a referral for accountability pursuant to Article 9(5) of the

