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Facts and Procedure

5.! The facts and background to this appeal are comprehensively dealt with by the UNDT in both Judgments. The following are the relevant findings.

6.! In the UNDT First Judgment, the Dispute Tribunal found:[2]

...

... By a letter dated 19 June 2015, the former counsel for the Applicant wrote to the Secretary-General, raising concerns regarding the recommendatio

choosing. He also claimed that he did not receive the CCTV video footage through his Counsel. He further claimed that the Secretary of the ABCC is biased against him and thus should be excluded from the handling of his case since the Secretary of the ABCC had been responsible for allegedly not providing all the Applicant's medical reports to the ABCC previously.

... On 13 March 2019, noting that it appeared that the Applicant's Counsel had not provided him with the CCTV video footage, the ABCC provided the Applicant with a copy of the video footage via courier, requesting him to provide comments by 22 March 2019.

... On 25 March 2019, the ABCC informed the Applicant that it had sent a copy of the CCTV video footage of the incident to the Applicant's residence via courier. The ABCC, providing a tracking number, informed him that a delivery attempt was made

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source), the failure of the Chief SSS to investigate the Appellant's report of "systematic manipu

Considerations

I. Appellant's Receivability Response and Request for Suspension, Waiver or Extension to Time Limit to Appeal (the "Request")

21. The Appeals Tribunal gave the Appellant an opportunity to respond to the Respondent's submissions on the receivability of the appeal. On 1 September 2020, the Appeals Tribunal issued Order No. 378 granting the Appellant 30 days to file his written response to the Secretary-General's argument that his appeal is not receivable and an opportunity to seek a waiver of the time limit per Article 30 of the United Nations Appeals Tribunal Rules of Procedure (the "Rules").

22. The Appellant filed the Request on or about 2 September 2020. In the Request, the Appellant stated that he had been in poor health and was discharged from hospital on 18 February 2020, the day he filed the appeal. He provided a medical note from a cardiac and thoracic surgeon from the hospital that confirmed that around 14 February 2020, the Appellant developed health symptoms and the surgeon conducted a medical procedure in the hospital on 17 February 2020 with a discharge on 18 February 2020.

23. The Respondent argues that the Appellant did not file the Request at the time the appeal was filed. As he has filed several cases before the UNDT and UNAT, the Appellant is aware of the deadlines for filings and should have requested a waiver of time limit at the time of the appeal being filed on 18 February 2020.

24. The deadline for filing an appeal to the Appeals Tribunal is set out in Article 7(1) of the Statute:

> (c) The appeal is filed within 60 calendar days of the receipt of the judgement of the Dispute Tribunal … or, where the Appeals Tribunal has decided to waive or suspend that deadline in accordance with paragraph 3 of the present article, within the period specified by the Appeals Tribunal.

25. The Appellant does not contest that, by filing the appeal on 18 February 2020, the appeal is beyond the 60-day filing deadline required by Article 7(1)(c) of the Statute. Rather, the Appellant files the Request pursuant to Article 7(3) of the Statute and Rule 7(2) of the Rules, both of which provide that, in exceptional cases, the Appeals Tribunal may decide in

writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time.

26.! In addition, Article 30 of the Rules allow "the panel hearing a case [to] shorten or extend a time limit fixed by the rules of procedure or waive any rule when the interests of justice so require".

27.! In this instance, we find that there were exceptional circumstances to waive the time limit and accept the appeal submitted on 18 February 2020. As supported by the medical note from the cardiac and thoracic surgeon, the Appellant was suffering from a medical condition on or about 14 February 2020 and was hospitalized until 18 February 2020. He could not have filed the appeal during that time period. He was unable to file the appeal on a timely basis but filed the appeal as soon as he was able.

28.! As a result, we find that interests of justice require that the appeal deadline be waived and therefore, the appeal filed on 18 February 2020 is receivable.

II. Merits of the Appeal

29.! The Appeals Tribunal's authority in reviewing the Dispute Tribunal's j

in a manifestly unreasonable decision. Simply rearg

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neither "physiologically