



Cases No.: UNDT/GVA/2009/75
UNDT/GVA/2009/81
Judgment No.: UNDT/2009/062
Date: 03 November 2009

Introduction

1. The two Applicants, former staff members of the United Nations Mission in Kosovo, contested the Secretary-General's decision dated 23 February 2009 to terminate, with effect from 28 February 2009, their 300-series appointment of limited duration prior to its expiration date on 31 March 2009, without appropriate termination indemnity and without appropriate compensation in lieu of notice.

Facts

2. It would appear that on 23 February 2009,¹ the Applicants were notified of the decision to terminate their appointment.

3. On 25 February 2009, the two Applicants and ten staff members who had also been notified of the decision to terminate their appointment wrote a joint letter to the Secretary-General to request review of the decision.

4. On 26 May 2009, a number of staff members who had sent the above-mentioned request for review to the Secretary-General filed a joint, incomplete statement of appeal to the New York Joint Appeals Board (JAB). The name of the two Applicants was not on the list of staff members purported to have filed the appeal.

5. On 26 June 2009, 14 former staff members, including the Applicants, filed, with the heading "class action", a joint, complete statement of appeal to the JAB.

6. Pursuant to the transitional measures set out in resolution 63/253 of the General Assembly, the JAB case was transferred to the United Nations Dispute Tribunal (UNDT) on 1 July 2009.

7. By order dated 09 October 2009, the Tribunal, considering among other things that all 14 individual cases did not raise the same issues and that the file transferred to the Tribunal did not contain all the information necessary for it to pass judgment on each individual case, ordered that the original JAB case be split into 14 separate cases. On the same day, the Applicants were instructed to submit

8. Neither Applicant provided the information requested or otherwise responded to the Tribunal.

9. By order dated 23 October 2009, the Tribunal instructed the two Applicants to provide by 30 October 2009 the information previously requested on 9 October 2009, failing which the cases would be adjudicated by summary judgment. Neither Applicant responded to the Tribunal.

Considerations

10. Since the facts and legal issues are exactly the same in the two cases, the Tribunal decided to dispose of them by a single judgment.

11. According to article 9 of the UNDT rules of procedure (RoP), the Tribunal may determine, on its own initiative, that summary judgment is appropriate. This

two weeks, the Tribunal reiterated its request by order dated 23 October 2009, while warning the Applicants that failure to comply with the order by 30 October 2009 would lead to the case being adjudicated by summary judgment. Since the Applicants still did not react, it is clear without any reasonable doubt that the Applicants are no longer interested in the outcome of the legal proceedings they instituted, which must therefore be deemed to have been abandoned.

Conclusion

15. In view of the foregoing, the applications are rejected in their entirety.

(Signed)

Judge Thomas Laker

Dated this 3rd day of November 2009

Entered in the Register on this 3rd day of November 2009

(Signed)

Víctor Rodríguez, Registrar, UNDT, Geneva