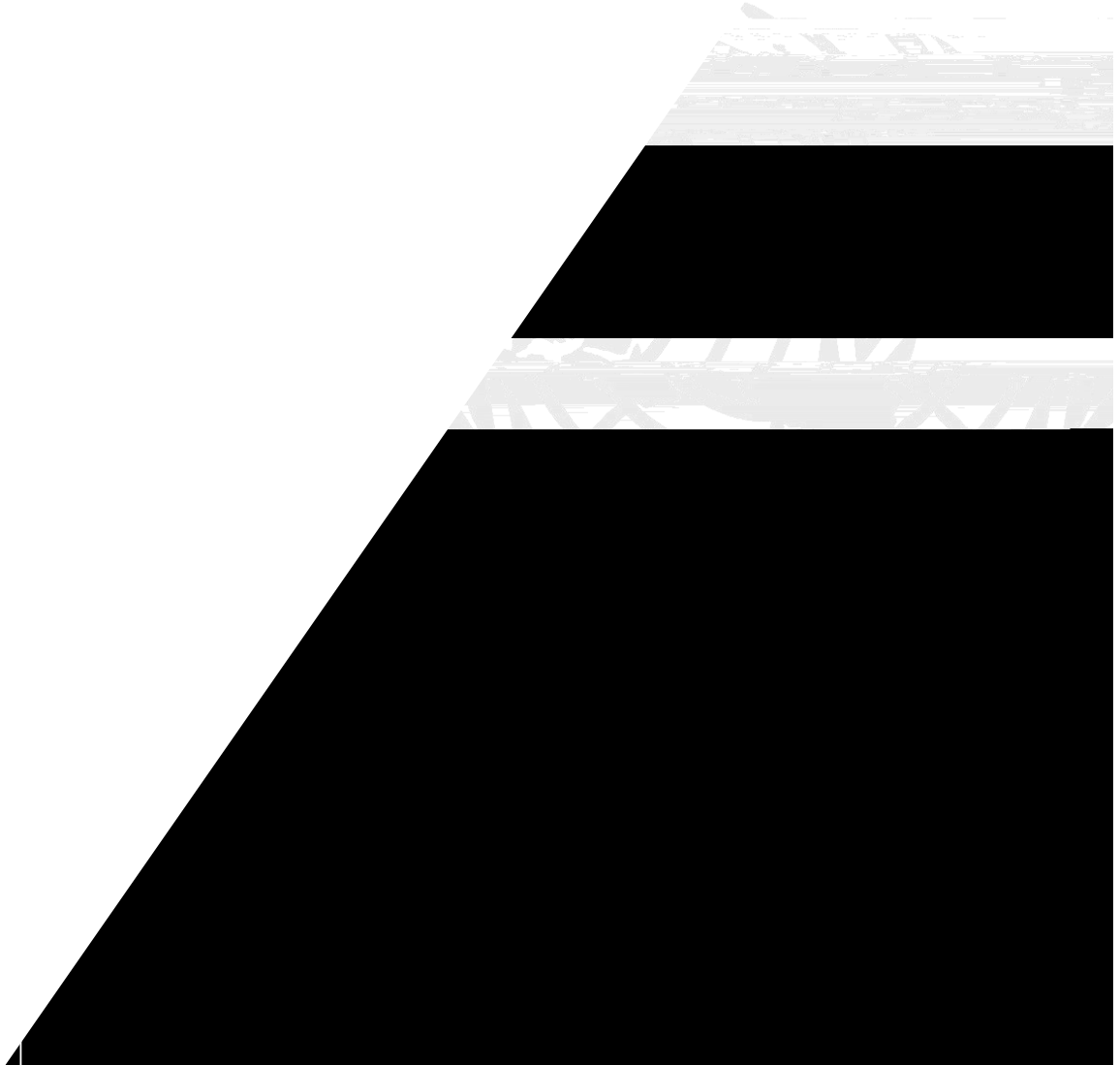




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Counsel for Respondent/Applicant: No appearance

Counsel for Appellant/Respondent: Wambui Mwangi

JUDGE LUIS MARÍA SIMÓN, Presiding.

Synopsis

1. The issue raised in this appeal is the status of a judgment of the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) on compensation after this Tribunal has vacated the judgment of the UNDT on the merits of the case. Once the judgment on merits is vacated and no liability on the part of the Administration has been established, the judgment on compensation cannot stand if it would be contrary to the final decision on the merits of the case. An appeal against the judgment on compensation is not

Submissions

7. The Secretary-General argues that the Judgment on compensation has no legal basis as this Tribunal has vacated the Judgment on merits.

Considerations

8. The main issue raised in this appeal is the status of a judgment of the UNDT on compensation after this Tribunal has vacated the judgment of the UNDT on the merits of the case.

9. Once the judgment on merits has been vacated and no liability on the part of the Administration has been established, the judgment on compensation cannot stand if this would be contrary to the final decision on the merits of the case. This will be the situation in most cases.

10. Therefore, an appeal against the judgment on compensation is not necessary if the legal basis for the award of compensation by the UNDT no longer exists. In the Judgment disposing of the appeal by the Secretary-General against the UNDT's Judgment on merits, this Tribunal held as follows:

25. ... The UNDT erred on a question of fact resulting in a manifestly unreasonable decision in finding that the non-renewal of Beaudry's appointment was in breach of her rights.

26. Accordingly, there are no grounds to support the ruling in the UNDT's Judgment that Beaudry is entitled to compensation for the non-renewal of her appointment of limited duration.²

11. A judgment of the Appeals Tribunal will not usually be necessary to determine the consequences of the vacation of the judgment of the UNDT on the merits with respect to the subsequent judgment of the UNDT on compensation. In this particular case, the time limit for the Secretary-General to file an appeal against the UNDT's Judgment on compensation was due to expire before the consideration by this Tribunal of the appeal against the UNDT's Judgment on merits. The time limit to appeal was extended by Order No. 10 (2010) until a

² *Beaudry v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-085.

date after the publication of the synopsis of this Tribunal's Judgment. The Secretary-General filed his appeal after it wa

THE UNITED NATIONS APPEALS TRIBUNAL

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