



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

**Ghahremani
(Appellant)**

v.

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

JUDGE SOPHIA ADINYIRA, Presiding.

Synopsis

1. Considering that the two appeals raise a common set of facts, and that consolidating them will serve judicial economy and consistency without changing or affecting the rights of the parties, Appeal Case No. 2010-169 and Appeal Case No. 2010-170 are joined.
2. Mr. Mohsen Ghahremani, a former staff member of the United Nations Office at Vienna (UNOV), separated from service in December 1996. On 27 October 1999, UNOV barred him from entering its premises. Mr. Ghahremani requested administrative review of this decision. He subsequently asked for a copy of his Official Status File (OSF) and documents relating to the decision to bar him from entering the UNOV premises. His request was rejected.
3. The United Nations Dispute Tribunal (UNDT or Dispute Tribunal) has jurisdiction over applications filed by a staff member, a former staff member or a person making claims in the name of an incapacitated or deceased staff member with respect to an administrative decision that is alleged to be in noncompliance with the terms of appointment or the contract of employment.
4. At the time UNOV barred him from entering its premises Mr. Ghahremani was not a staff member. Consequently, he cannot complain that the decision was in noncompliance with his terms of appointment or contract of employment. The UNDT thus correctly held that the application was non-receivable *ratione personae*.
5. With respect to the second appeal, Mr. Ghahremani, as a former staff member, is entitled to have access to his files for the period corresponding to his former employment with UNOV. However, since the reasons for gaining access to his files relate to a decision which has no bearing on Mr. Ghahremani's former status as a staff member of UNOV, the UNDT correctly held that the application was not receivable.
6. Both appeals are dismissed and the UNDT Judgments are affirmed.

14. In Judgment No. UNDT/2010/075 dated 30 April 2010, Judge Cousin rejected Mr. Ghahremani's application against the denial of his counsel's access to his OSF and other documents. He recalled that Mr. Ghahremani was a UNOV staff member until 31 December 1996, and that the contested decision to bar him from the UNOV premises was taken on 27 October 1999. Judge Cousin found that if Mr. Ghahremani was entitled to have access to his complete file,

that entitlement exist[ed] only in so far as consultation of the file relate[d] to events during the period when he was an employee and was therefore subject to the Staff Regulations and Rules. In the case in point, the request for access to the applicant's file relate[d] to a decision of 27 October 1999 barring him from VIC [Vienna International Center, same as UNOV premises] which ha[d] no connection with his former status as a staff member.

Judge Cousin held that, as the contested decision could not have adversely affected Mr. Ghahremani's terms of appointment as a former staff member, the application was not receivable before either the former Administrative Tribunal or the UNDT.

15. In Judgment No. UNDT/2010/076 also dated 30 April 2010, Judge Cousin rejected Mr. Ghahremani's application against the decision to bar him from entering the UNOV premises as non-receivable *ratione personae*. Judge Cousin found that on 27 October 1999 when UNOV barred him from entering its premises Mr. Ghahremani was not a staff member. As the holder of an SSA contract Mr. Ghahremani was "no longer subject on that date to the Staff Rules and the barring cannot have adversely affected his terms of appointment as a former staff member".

16. Mr. Ghahremani appeals both Judgment No. UNDT/2010/075 and Judgment No. UNDT/2010/076.

Submissions

Mr. Ghahremani's Appeals

17. Mr. Ghahremani repeats the pleas that he made before the Joint Appeals Board (JAB) in Vienna. In addition, he maintains that the UNDT failed to exercise its jurisdiction and made errors in fact and law. Mr. Ghahremani requests that the United Nations Appeals Tribunal (Appeals Tribunal) order the Respondent to produce all documentation or evidence

related to the decision to bar him from entering the UNOV premises, and that this Court find his appeal receivable.

18. Mr. Ghahremani reiterates his request for the remedies that he sought before the JAB in Vienna: namely, a total of eight years' net base salary; a total of USD 50,000 for his counsel; a position with the United Nations; an apology from the Secretary-General; the removal of his name from the list of "unwanted persons"; the revocation of the decision "not to employ" him; and the removal of all references to the "incident" from his files.

Secretary-General's Answers

19. The UNDT correctly concluded that the contested decision to refuse Mr. Ghahremani

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29. As the holder of an SSA contract, Mr. Ghahremani was no longer subject on that date to the Staff Regulations and Rules and the barring cannot have adversely affected his terms of appointment as a former staff member. Accordingly, the Dispute Tribunal rightly rejected Mr. Ghahremani's application as non receivable *ratione personae*.¹

Judgment

30. The appeals are dismissed. Judgment No. UNDT/2010/075 and Judgment No. UNDT/2010/076 are affirmed.

Original and authoritative version: English

Done this 21st day of October 2011 in New York, United States.

(Signed)

Judge Adinyira, Presiding

(Signed)

Judge Simón

(Signed)

Judge Weinberg de Roca

Entered in the Register on this 2nd day of December 2011 in New York, United States.

(Signed)

Weicheng Lin, Registrar

¹ Cf. *Sims v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-154.