



Judgment No. 2019-UNAT-943



Counsel for Ms. Hassan: Self-represented

Counsel for Secretary-General: Wambui Mwangi

**JUDGE MARTHA HALFELD, PRESIDING.**

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Order No. 003 (UNDT/NBI/2019), rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Nairobi on 9 January 2019, in the case of *Hassan v. Secretary-General of the United Nations*. Ms. Zamzam Ahmed Hassan filed the appeal on 9 March 2019 and the Secretary-General filed his answer on 15 April 2019.

**Facts and Procedure**

2. On 3 July 2014, Ms. Hassan joined the United Nations Population Fund (UNFPA) as an Administrative/Finance Associate at the G-7 level in the UNFPA Office in Somalia.

3. On 24 April 2018, Ms. Hassan filed a request for management evaluation.<sup>1</sup> By letter dated 5 June 2018, the Executive Director, UNFPA informed Ms. Hassan that her request had failed to specify the contested administrative decisions, but that it appeared that she was contesting the decisions not to grant her certified sick leave between 23 November 2016 and 12 February 2017 and between 10 March 2017 and 29 April 2017, and to pay her daily subsistence allowance (DSA) for 23 to 29 November 2016 only. The Executive Director found no basis to set aside the contested decisions, considering that the leave of absence Ms. Hassan had taken during the contested period had not been approved as certified sick leave by the Medical Services Division (MSD) and that she had not received DSA since she had not been considered to be on medical evacuation travel status during the contested period.

4. On 31 August 2018, Ms. Hassan filed an application with the UNDT. On 3 September 2018, the UNDT Registry informed Ms. Hassan that she ought to have filed an application on the merits rather than an application for suspension of action since the management evaluation had already been completed. She was instructed to complete the proper application form by 5 September 2018. On 10 September 2018, the Registry contacted Ms. Hassan again requesting her to complete the proper application form. She was informed that her application would not be served on the Secretary-General for a reply until she complied with the UNDT's instructions. At the time of the contested UNDT Order, Ms. Hassan had not yet submitted the proper application form.

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<sup>1</sup> The letter was dated 9 April 2018.

5. On 9 January 2019, the UNDT in Nairobi issued Order No. 003 (NBI/2019). The UNDT found that Ms. Hassan had failed to articulate her application properly and had failed to identify in clear terms the administrative decision of which she was seeking review. The UNDT concluded that there was therefore no proper application before it for determination and ordered that Ms. Hassan's case be struck out.

### **Submissions**

#### **Ms. Hassan's Appeal**

6. Ms. Hassan requests that the Appeals Tribunal grant her denied entitlements to DSA and sick leave during her medical evacuation.

7.

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17. In accordance with the Appeals Tribunal's consistent jurisprudence, we stated in *Villamorán*:<sup>3</sup> "The Appeals Tribunal has consistently emphasized that appeals against most interlocutory decisions will not be receivable, for instance, decisions on matters of evidence, procedure, and trial conduct. An interlocutory appeal is only receivable in cases where the UNDT has clearly exceeded its jurisdiction or competence."

18. In accordance with this jurisprudence, an interlocutory order by the UNDT is only appealable when the UNDT has clearly exceeded its jurisdiction or competence.

19. In the case at hand, the Order issued by the UNDT is an interlocutory decision, because it struck out the matter, meaning that, because Ms. Hassan had not properly identified the administrative decision she was challenging, the UNDT did not consider her application. The UNDT also based its conclusion on the fact that, since it was not in dispute that the management evaluation had already been completed, it was Ms. Hassan's responsibility to file an application on the

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22. The appeal is dismissed as not receivable. Ms. Hassan may supplement her application with the UNDT within 90 days of the date of the publication of the present Judgment.

Original and Authoritative Version: English

Dated this 28<sup>th</sup> day of June 2019 in New York, United States.

*(Signed)*

Judge Halfeld, Presiding

*(Signed)*

Judge Thomas-Felix

*(Signed)*

Judge Murphy