



Judgment No.

Counsel for Ms. Atuya: Edwin Nhliziyo

Counsel for Secretary-General: Noam Wiener

Reissued for technical reasons on 16 September 2020

JUDGE KANWALD EEP SANDHU , PRESIDING .

1. The Appellant, a Human Resources Assistant with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) in Bangui, was detained and medically evacuated to her home country in March 2018. She unsuccessfully contested these decisions and appealed to the United Nations Dispute Tribunal (the UNDT or Dispute Tribunal) .

2. In Judgment on Receivability No. UNDT/2019/087 issued on 20 May 2019, the Dispute Tribunal dismissed her application as irreceivable. The UNDT noted that, by 31 March 2018, the Appellant had all the information about the decisions to detain her and medically evacuate her to Nairobi. The time limit for seeking a management evaluation therefore started running from that date for 60 days through 30 May 2018. But, the Appellant sought management evaluation of the contested decisions only on 29 June 2018, 29 days out of time.¹ The Dispute Tribunal found unpersuasive her claim that she was unable to deal with the issue until after she had been released from the treatment center on 28 May 2018.

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was the same challenge that Appellant had made in July 2016 against her “detention” and medical evacuation at that time and thus could not be revisited.

12. Before the MEU issued the outcome of the management evaluation, the Appellant appealed to the Dispute Tribunal, which held that the decisions to detain her in a medical facility and medically evacuate her were administrative decisions. However, the

consideration under Article 30 of the Rules of Procedure of the Appeals Tribunal (Rules), which gives the Appeals Tribunal the power to “shorten or extend a time limit ... when the interests of justice so require”. Absent the misdib

Considerations

22. Article 2(1) of the Statute of the Appeals Tribunal (the Statute) provides that the Appeals Tribunal is competent to hear and pass judgment on an appeal of the Dispute Tribunal's judgment in which it is asserted that the Dispute Tribunal:

- a) Exceeded its jurisdiction or competence;
- b) Failed to exercise jurisdiction vested in it;
- c) Erred on a question of law;
- d)

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37. Therefore, the discretion to waive the deadline for management evaluation or administrative review is given to the Secretary-General. In this instance, the Appellant did not seek the exercise of that discretion by requesting a deadline extension from the Secretary-General during the management evaluation process. As a result, Article 8(3) of the UNDT Statute operated and the Dispute Tribunal correctly found that the Appellant's request for management evaluation was not receivable. The UNDT correctly interpreted its jurisdiction in the matter and the application of Article 8(3) of the UNDT Statute. In doing so, the UNDT did not commit errors of jurisdiction, law, or fact that led to a manifestly unreasonable decision.

Judgment

38. The appeal is dismissed and Judgment No. UNDT/2019/087 is hereby affirmed.

Original and Authoritative Version: English

Dated this 27th day of March 2020.

(Signed)

Judge Sandhu, Presiding
Vancouver, Canada

(Signed)

Judge Knierim
Hamburg, Germany

(Signed)

Judge Halfeld
Bournemouth, United Kingdom

Entered in the Register on this 19th day of June 2020 in New York, United States.

(Signed)

Weicheng Lin, Registrar