

Judgment No. 2020-UNAT-992

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THE UNITED NATIONS APPEALS TRIBUNAL
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Secretary-General following the issuance of the above judgments to endorse the MEU's determination with respect to the qualification of the LSSC in conjunction with salary survey specialists as a "technical body". Finally, the UNDT rejected the Appellants' contention that the fact that the Secretary-General had made no determination concerning technical bodies should be interpreted in their favour.

10. The Appellants filed an appeal on 29 July 2019 and the SecretaryGeneral filed his answer on 14 October 2019.

Submissions

Manoharan et al.'s Appeal

- 11. The UNDT erred in finding that the Appellants were required to request management evaluation. Staff Rule 11.2(b) requires the SecretaryGeneral to identify administrative decisions taken pursuant to advice obtained from technical bodies. Once the Secretary-General has determined that a particular decision falls under Staff Rule 11.2(b), future similar decisions need not be referred for management evaluation. To find otherwise would render Staff Rule 11.2(b) meaningless as it would meanthat all decisions need to be referred to the MEU for it to make an assessment under Staff Rule 11.2(b).
- 12. In the Tintukasiri et al. cases,⁴ the Administration found that requests for management evaluation were not receivable since the decision was taken pusuant to the advice from the LSSC in conjunction with salary survey speci(na)0.7 (ge)1.8411 (f)-40.7 (n)-2.7 (3)-2(T)-1.1 (i)-0.7 (Tr)-5.7 raio0.7 122 1 Tf(i00Tf(i000f(0073al.-2.6 (rT)-5.7)

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rely on these precedents.	

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Staff Rule 112(b) by contradicting his own decisions and by making inconsistent submissions before the Tribunals. By failing to act fairly, justly and transparently, the Administration impermissibly sought to lead the Appellants into error as to the proper procedure for contesting the impugned decisions, which in turn affected their fund amental right to have access to justice It is a general principle of administrative law that procedural rules regarding time limits and receivability should not unduly impede the right to have access to justice, particularly in situations where such rules have been misused or misapplied by the Administration.

17. Assuming arguendo that no determination had been made, the SecretaryGeneral's silence ought to have been interpreted in favour of receivability. Under the Statute of the International Civil Service Commission (ICSC), the ICSC shall establish the methods by which the principles for determining conditions of service should be applied. The methodology makes it clear that the role of salary survey specialists is to provide the technical expertise required to conduct a salary survey and that the conduct of the survey is largely a technical exercise. The Secretary-General has no discretionary power with respect to the decisions by the ICSC. The Administration's duty 2Ru

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a request for management evaluation of an administrative decision. The applications were therefore not receivable under the above provisions.

21. Staff Rule 11.2(b) allows for an exception to the management evaluation requirement when the challen

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Furthermore, the Appellants' contention that the UNDT failed to address their argument that they had legitimately relied on the Tribunals' pronouncements in Tintukasiri et al. is misconstrued. As stated above the Tribunals made no finding on whether or not that case should have been submitted for management evaluation. There was thus no judicial precedent which the UNDT would have had to address. Finally, the argument that the UNDT disregarded their submission regarding the presumption of validity of official acts is not articulated clearly and has not been made before the UNDT. As to the other submissions, the Appellants Tthar ta.5 (e mr TwpIntipEaBro

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Whether the Appellants were exempted from filing a request f or management evaluation for other reasons?

35. The Appellants argue that they were exempted from filing a request for management evaluation because an LSSC gives technical advice to the exempted from filing a request for management evaluation because an LSSC gives technical advice to the exempted from filing a request for management evaluation because an LSSC gives technical advice to the exempted from filing a request for management evaluation because an LSSC gives technical advice to the exempted from filing a request for management evaluation because an LSSC gives technical advice to the exempted from filing a request for management evaluation because an LSSC gives technical advice to the exempted from filing a request for management evaluation because an LSSC gives technical advice to the exempted from filing a request for management evaluation because an advice to the exempted from filing and the exempted from filing a request for management evaluation because an advice to the exempted from filing and the exempted from filin

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37. Th	ie appealis dismisse	d and Judgment No. UNDT/2	2019/ 103 is hereby affirm ed.
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