



Judgment No. 2020-UNAT-992



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THE UNITED NATIONS APPEALS TRIBUNAL

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rely on these precedents.

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 fundamental 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 Secretary-General'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

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



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 Twrnp59c





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Whether the Appellants were exempted from filing a request for 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 Secretary.

Judgment

37. The appeal is dismissed and Judgment No. UNDT/2019/ 103 is hereby affirmed.

Original and Authoritative Version: English

Dated this 27<sup>th</sup> 0.005 T1-wm