



Case No. UNDT/NBI/2010/11/UNAT/1587

Judgment No.: UNDT/2010/167

of the JAB informed the applicant's counsel that pursuant to Rule III.E of the JAB Rules of Procedure and Guidelines, a complete Statement of Appeal must be submitted within one month, in the absence of which, the appeal would be deemed abandoned and removed from the calendar. In August of 2003, the applicant acknowledged rece

12. On 27 May 2010, the Tribunal issued Order No. 095 (UNDT/2010) in which the parties were advised to file their written submissions on the question of waiver of time limits by or before, 30 June 2010. The applicant and the respondent filed the said submissions on 24 and 30 June 2010 respectively.

Applicant's Submissions

13. The applicant submits the following as the exceptional reasons justifying a waiver of the time limits in her case:

- a. The JAB had granted her an open-ended extension for the filing of the complete Statement of Appeal. The applicant, had all along in good faith, relied on the integrity and validity of that extension. The JAB prior to its

required to file her Application with the former UN Administrative Tribunal by 12 February 2008. Even assuming that time started running from the date of the issuance of the Corrigendum, the applicant was required to file her Application with the former UN Administrative Tribunal by 8 September 2008. However, the applicant did not file the present Application until 12 November 2008, more than two months beyond the deadline.

c. No submissions were made by applicant to the effect that her personal situation prevented her from filing the Application of 12 November 2008 to the former UN Administrative Tribunal within the time limits set out in Article 7(4) of the former UN Administrative Tribunal Statute. The respondent also submits that, on the basis of the information before it, there is no record of the applicant having requested or having been granted an extension of time to submit her Application to the former UN Administrative Tribunal. Accordingly, the respondent submits that the applicant has not demonstrated the existence of an “exceptional case” which would warrant the waiver of the said time limits for filing the Application pursuant to Article 8(3) of the Statute of the Dispute Tribunal.

d. In light of the foregoing, the respondent submits that the present Application is time barred and not receivable and that waiver of the time limits is not warranted.

Judgment

15. In UNDT Judgment No. 037, *Sethia* (2010), the Tribunal set out the applicable law in determining whether the time limits imposed by the Statute of the Dispute Tribunal will be waived. In the present case, having considered the applicant’s submissions, the Tribunal finds that they do not satisfy the requirement of “exceptional” in Article 8.3 of the Statute of the Dispute Tribunal. The applicant’s physical presence was not required in the U.S. for her to file her Application. She

should have filed her application electronically. Having found the Application to be time-barred, the Tribunal rejects the Application in its entirety.