
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2016/011

J !g " e#\$ No.: UNDT/2016/20%

Date: 1 & No 'e" (e) 2016

O)*g*#a+: E#g!*s,

Introduction

1. By a decision filed on 20 September 2011 (the "Decision") the National Office of the Inspector General and the Inspector General transferred to the General Inspector, the Assistant, a -u -ly \$ff"#e& .P/01 (the "Assistant") the United Nations Security Council Mission in the Democratic Republic of the Congo (UN-C\$51), contests the decision to revoke the second instalment of the lump sum payment of the assignment grant to (Mrs)asa.

Relevant Facts

2. On 17 December 2011, the Assistant (as assigned from the United Nations -u -ly \$ff"#e for the African Union Mission in Somalia ("AMISOM") to the United Nations Security Council Mission in the Democratic Republic of the Congo (UN-C\$51) (Mrs)asa, as a -u -ly \$ff"#e .P/01. Upon the Assistant's arrival in (Mrs)asa, the Assistant (as assigned an assignment grant that included a daily subsistence allowance (AN\$4D-A51 for the) days and a

6. By article 10 of the No. 12/2010, the 3rd paragraph, C.I. "Annual Benefits and Pensions" - article 10, paragraph 1, of the Pension Code of the State of the Republic of the Congo, the applicant was not allowed to take a second installment of his assignment grant during the period of his duty station.

8. Article 12 of the No. 12/2010, the applicant was allowed a one-month suspension ("leave") of his 3rd paragraph, C.I. "Annual Benefits and Pensions" - article 10, paragraph 1, of the Pension Code of the State of the Republic of the Congo, (hereinafter referred to as "article 10") of the Pension Code of the State of the Republic of the Congo, for 15 days beyond his second anniversary of his duty station. Article 10 of the Pension Code of the State of the Republic of the Congo, (hereinafter referred to as "article 10") of the Pension Code of the State of the Republic of the Congo, provided that the second installment of his assignment grant in the amount of U-D911, is as follows: one month of the total amount. Article 21 of the No. 12/2010, the amount (as indicated to the applicant) is as follows:

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12. By email of 8 January 2017, the manager, C+! "an Benefits and Payco!!
-e&+"#e >"ne, *-C?, ad+"sed the A !"#ant to 4#onta# 3 \$NU-C\$;*, Goma
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17. By email of the same day, the A !"#ant (&ote t)e fo!!o ("ng to t)e C)"ef
; uman *esou&#es \$ff"#e&, 3 \$NU-C\$E

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De#Bem%e&C 2017.

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10.

Parties' submissions

2'. The Applicant's arguments are:

- a. ; "s first request for management evaluation (as not time-barred as the final decision regarding)'s request for full

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%. If yes, did the respondent's claim (the T&A) in 90 days of the
of the management evaluation?

70. Pursuant to staff rule 11.2 and art. 11.1 of the T&A statute, for an
a claimant to be eligible, the claimant must first

and * -C?, t) e !attek de#"ded to ay t) e A !"#ant a lo&ated amount of t) e se#ond "nsta!ment of)'s ass"gnment g&ant, and a'd "t "nto t) e A !"#ant:s %an@ a##ount on 21 No+em%e& 2010. A##o&d"ng to an ema"! of 2 Janua&y 201' f&om t) e 3 anage&, C+"!"an Benef"ts and Pay&o!! -e&+"#e >"ne, * -C?, t) e A !"#ant su%um"tted a ayment &e<uest fo& m and s"gned a 4 (&"tten unde&ta@ng5 to &e#e"+e t) e lo&ated ayment. T)at %e"ng sa"d, t) e do#uments do not #!ea&ly esta%!"s t)at t) e lo&ated ayment (as made fo!!o ("ng an ag&reement %et (een t) e A !"#ant and * -C?, o& t)at t) e A !"#ant (as eF !"#tly "nfo&med t)at) e (ou!d &e#e"+e a lo&ated ayment &"o& to su#) ayment %e"ng made. 9n any e+ent, t) e&e #an %e no dou%t t)at t) e A !"#ant (as made a (a&e of t) e de#"s"on to deny)'s #!a"m fo& full ayment of t) e se#ond "nsta!ment of)'s ass"gnment g&ant ()en) e &e#e"+ed a lo&ated ayment on 21 No+em%e& 2010. T) e A !"#ant)ad 60 days f&om 21 No+em%e& 2010 to &e<uest management e+a!uat"on. ; e fa!led to do so.

76. T) e ema"! of 12 Ae%&ua&y 201' f&om t) e ;uman *esou&#es -e&+"#e of 3 \$ NU-C\$ (as me&e!y a &e"te&at"on of t) e o&"g"na! de#"s"on deny"ng t) e A !"#ant:s &e<uest to %e a'd t) e fu!! amount of t) e se#ond "nsta!ment of)'s ass"gnment. T) e !ong stand"ng Du&"s &uden#e of t) e A ea!s T&"%una! "s t)at t) e &e"te&at"on of an o&"g"na! adm"n"st&at"+e de#"s"on does not &eset t) e #!o#@ ("t) &es e#t to statuto&y t"me !"m"ts, ()"#) st&ated to &un f&om t) e date of t) e o&"g"na! de#"s"on .Sethia 2010/UNAT/089, Aliko 201'/UNAT/'79, Kazazi 201'/UNAT/' '81.

78. 9t fo!!o (s t)at t) e a !"#at"on "s not &e#e"+a%le rati^one materiae .Egglefield 2010/UNAT/0021 and t)at t) e T&"%una! does not)a+e Du&"sd"#t"on to #ons"de& t) e &es e#t"+e #ontent"ons of t) e a&t"es on t) e me&"ts of t) e #ase.

7=. T) e a !"#at"on "s also not &e#e"+a%le rati^one temporis. T) e 3 ?U &es onded to t) e A !"#ant:s f"kt &e<uest fo& management e+a!uat"on on 21 July 201', and t) e A !"#ant f"led)'s a !"#at"on on 20 \$#to%e& 201', t)at "s one day afte& t) e eF "ky of t) e 90/day dead!"ne set fo&t) "n a&t. =.1.dl."l.al of t) e T&"%una! :s -tatute. 9n an ema"! of 27 July 201', t) e A !"#ant #!ea&ly a#@no (!edged t)at t) e t"me !"m"t to f"le an a !"#at"on %efo&e t) e T&"%una! st&ated to &un f&om 21 July 201'. T) e T&"%una! does not deem a lo&ate "n t) e "nstant #ase to #ons"de& t) e

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a !"#at"on "s, "n any e+ent, "&&e#e"+a%!e rati^one materiae.

Conclusion

79. 9n +"e (of t)e fo&ego"ng, t)e T&"%una! D?C9D? -E

T)e a !"#at"on "s &eDe#ted.

.Signed!

Judge *o (an Do (n"ng

Dated t)"s 1=^t) day of No+em%e& 2016

?nte&ed "n t)e *eg"ste& on t)"s 1=^t) day of No+em%e& 2016

.Signed!

*enJ 3. Va&gas 3., *eg"st&&, Gene+a