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JUDGE INÉS WEINBERG DE ROCA, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Dae Won Choi against two decisions rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva: Judgment No. UNDT/2011/181 dated 24 October 2011, upholding the disciplinary decision to dismiss Mr. Choi on grounds of harassment and abuse of authority (Judgment on the Merits); and, Judgment No. UNDT/2015/064 dated 6 July 2015, dismissing Mr. Choi's application for revision of Judgment No. UNDT/2011/181 (Judgment on Revision). Mr. Choi appealed on 13 November 2015,¹ and the Secretary-General answered on 18 January 2016.

Facts and Procedure

2. For purposes of judicial economy, the facts are limited to those the Appeals Tribunal considers relevant for the disposition of the present appeal.

3. On 24 October 2011, the UNDT issued its Judgment on the Merits, upholding the disciplinary decision taken in October 2009 summarily dismissing Mr. Choi from service on grounds of harassment and abuse of authority. In subsequent correspondence between Mr. Choi and the UNDT Registry, Mr. Choi was alerted on more than one occasion of his right to appeal the Judgment on the Merits to the Appeals Tribunal. Although the record shows that Mr. Choi expressed to the UNDT Registry his intention to file an appeal, he never did so at the time.

4. On 25 August 2014, Mr. Choi submitted an application for revision of the Judgment on the Merits on the basis of alleged new "decisive evidence with material facts". On 26 August 2014, the Secretary-General filed his reply to the application for revision, which alleged abuse of process by Mr. Choi and requested an award of costs.

5. On 6 July 2015, the UNDT issued its Judgment on Revision, dismissing the application for revision in its entirety, noting "[a]n examination of the Applicant's submissions clearly shows that he is attempting to re-litigate his case. This is not, however, a valid ground to entertain an application for revision of judgment".² The UNDT held that "[n]o perjury was found at the time

¹ The Appeals Tribunal Order No. 238 (2015), granting Mr. Choi an extension of time to file his appeal.

² Impugned Judgment, para. 35.

20. Article 7(3) of the Rules provides that: “In accordance with article 7.4 of the statute of the Appeals Tribunal, no application shall be receivable if filed more than one year after the judgement of the Dispute Tribunal”.

21. The Judgment on the Merits, which Mr. Choi seeks to appeal by including it in his appeal of the Judgment on Revision, was issued more than four years ago, on 24 October 2011. The appeal is therefore not receivable.

22. In _____,⁶ we stressed that:

This Tribunal has repeatedly held that it ‘has been strictly enforcing, and will continue to strictly enforce, the various time limits’. The Appeals Tribunal has followed the jurisprudence of the former Administrative Tribunal according to which only circumstances ‘beyond his or her control that prevented the applicant from exercising the right of appeal in a timely manner’ may be considered ‘exceptional circumstances’ justifying a waiver of the statutory time limit.

23. The Appeals Tribunal granted Mr. Choi’s request for an extension to file his appeal of the Judgment on Revision “without prejudice to the determination as to whether his appeal is receivable”.⁷ We note that Mr. Choi did not include in his submissions on appeal any discussion of receivability, nor did he seek leave to respond to the Secretary-General’s reply which maintained Mr. Choi’s appeal was time-barred. The Secretary-General challenged the reasons Mr. Choi had advanced in his request to the Appeals Tribunal for an extension as not constituting “exceptional circumstances” justifying a waiver of the time limit.

24. The simple fact is Mr. Choi had not complied with the deadlines for filing an appeal, and has previously not complied with the time-limit to request revision before the UNDT, which was 30 calendar days of the discovery of a decisive fact and within one year of the date of the judgment (Article 12(1) of the Statute of the Dispute Tribunal (UNDT Statute) and Article 29 of the Rules of Procedure of the Dispute Tribunal (UNDT Rules)).

_____, Judgment No. 2014-UNAT-478, para 19, citing,

25. The appeal was non-receivable before the UNDT on that ground alone and, by extension, is non-receivable before this Tribunal.

26. We add that the UNDT correctly dismissed Mr. Choi's application for revision. The UNDT Statute and its Rules set out the material elements which a moving party must show for an application for revision to be granted, and they are practically identical to those in the Statute and Rules of this Tribunal, namely: "(1) a new fact which, at the time the judgment was rendered, was unknown to the Appeals Tribunal and the moving party; (2) such ignorance was not due to the negligence of the moving party; and (3) the new fact would have been decisive in reaching the original decision".⁸ As we have stated previously in connection with an application for revision before this Tribunal: "No party may seek revision of the judgement merely because that party is dissatisfied ... and wants to have a second round of litigation".⁹ As the UNDT correctly found, "[a]n examination of [Mr. Choi's] submissions clearly shows that he is attempting to relitigate his case".¹⁰

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27. The appeal is not receivable.

⁸ , Judgment No. 2014-UNAT-45, para. 14.

⁹ para. 15 (citing , Judgment No. 2011-UNAT-102), para. 11 (citing former Administrative Tribunal Judgment No. 894, (1998)).

¹⁰ Impugned Judgment, para. 35.

