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from service, until such indebtedness had been settled. The UNDT found for the following reasons that “the contested decision has been rendered moot.”²

9. Among its factual findings, the UNDT concluded that the issue or issues referred to management evaluation by Mr. Azar were “the decision not to process his separation, including issuing the relevant documents to the [pension fund] pending the completion of the ongoing investigation and disciplinary process.”³ The UNDT also so described the issue(s) brought to the tribunal by Mr. Azar. It described the relief sought from it by him as a direction to the Administration to release the documents to the pension fund so his pension benefits could be released. The UNDT said that in light of these claims, the issue “the Tribunal had been called to resolve was whether the Respondent was entitled to withhold any outstanding payments to [Mr.

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pass judgment. Any remedy issued would have no concrete effect."⁸ The proceeding was dismissed for mootness.

Submissions

Mr. Azar's Appeal

12. Mr. Azar contends that his pension entitlement did not take into consideration either a period of Field Service (FS) contribution with UNMIL from July 2014 to July 2016 or his contributions during the period where he had lost 3 steps in his grade.

13. Mr. Azar submits that he and his family have been harmed by the nine-month delay in receiving his entitlement. He contends that no one from the Organisation told him that there was a case against him or that his entitlement would be put on hold. He further contends that the nine-month delay led to him and his family becoming homeless and that he lost his car and access to schools for his children. He contends that the Organisation "discredited" his health condition.

14. Mr. Azar requests the following relief: "Compensation for the prejudice that the [A]dministration left against me and wasting a great time of my life for the damage it left to my family and my healthy life: Give me my lost rights when I served in Liberia: Recover my lost money when I lost three steps."

15. In addition, Mr. Azar makes the following request: "I request from your attention to give me my rights back, to compensate fairly what I deserve, and to add my contribution and settle the rest of my pension."

The Secretary-General's Answer

16. The Respondent contends that the UNDT was correct to dismiss the appellant's application on the basis that the appellant's claims regarding the withholding of his pension benefits were moot. The decision to withhold the release of pension benefits was rendered moot by subsequent actions, specifically that the appellant repaid the overpayments made to him, the Administration had given instructions for his paperwork to be released to the pension fund and the appellant received his pension benefit. The Respondent submits that the

Ibid., . 23.

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United Nations Appeals Tribunal (Appeals Tribunal or UNAT) jurisprudence has consistently found that the tribunals do not have the jurisdiction to examine the merits of an administrative decision that has been rescinded or superseded by subsequent actions of the Administration, thus rendering the matter moot.⁹

17. The Respondent submits that the UNDT was correct to find that the additional matters raised by the appellant, which were not subject to management evaluation, were not receivable.

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upon which grounds. It is insufficient for an appellant to state their disagreement with the outcome of the case or repeat arguments already submitted before the UNDT.¹⁰

20. The Respondent contends that it is insufficient for Mr. Azar to disagree with the findings of fact or conclusions of law made by the trial court; the appellant must persuade UNAT that the contested decision fulfils the objective criteria of its competence.¹¹

21. Further, the Respondent argues that dissatisfaction with a judgment and the desire to pursue another round of litigation are not a proper basis to seek the revision of a judgment.

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of this, the UNDT correctly disallowed Mr. Azar from doing so in the course of his original proceedings.!

29. The UNDT misapplied the law of mootness and, thereby, erred in law in reaching the Impugned Judgment.

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to error stem not from the retentions issue relating to his severance from service, but rather to earlier roles held by him elsewhere in the Organisation and the pay grades he had or ought to have held. These are matters that Mr. Azar may wish to take up with the pension board but cannot be hooked into these proceedings by him. In this regard, the Judgment of the UNDT is upheld.

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Judgment

35. The appeal against Judgment No. UNDT/2020/067 of the UNDT is allowed in part and the Judgment is set aside. Mr. Azar's claims for compensation for wrongful retention by the Respondent of his entitlements upon his resignation is remitted to the UNDT for decision on their merits. In view of the UNDT Judge at first instance having decided the issue which has now been sent back for re-decision, we direct that another UNDT Judge hear and decide the remitted case.

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Original and Authoritative Version: English

Dated this 19th day of March 2021.

(Signed)

Judge Colgan, Presiding