



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2018-1194

Nouinou
(Applicant)

v.

Secretary-General of the United Nations
(Respondent)

ORDER No. 344 (2019)

1. On 26 June 2018, the United Nations Dispute Tribunal in New York issued Judgment No. UNDT/2018/070 in the case of *Nouinou v. Secretary-General of the United Nations*. On 27 August 2018, the Secretary-General filed an appeal before the United Nations Appeals Tribunal (Appeals Tribunal) and Ms. Fátimazöhra Nouinou filed her answer on 29 October 2018. On 14 January 2019, Ms. Nouinou filed a motion for leave to file additional pleadings. By Order No. 339 Corr. (2019), the Appeals Tribunal denied Ms. Nouinou's motion.¹

2. On 29 March 2019, the Appeals Tribunal orally pronounced at a public hearing that the appeal was granted and that Judgment No. UNDT/2018/070 was vacated. Following the pronouncement, on 2 April 2019, Ms. Nouinou filed a motion with the Appeals Tribunal entitled "Motion to Overcome Judicial Bias and Withhold Case for Independent Oversight" (Motion One). On 4 April 2019, Ms. Nouinou filed a "Motion for Clarification, Dissuasion and Reconsideration" (Motion Two). On 22 April 2019, the Secretary-General filed his comments on both motions. On 24 April 2019, Ms. Nouinou filed observations on the Secretary-General's comments, in which she asked the Appeals Tribunal to reject the Secretary-General's comments and reiterated her position in Motions One and Two.

¹ Order No. 339 (2019) was issued on 31 January 2019 and was corrected on 4 February 2019, in analogous application of Article 26 of the Appeals Tribunal Rules of Procedure.

3. In Motion One, Ms. Nouinou avers that several errors made by the Presiding Judge in her case reveal that he was either biased against her or negligent in the review and disposal of her case. In support of her contention, Ms. Nouinou points *inter alia* to irregularities in Appeals Tribunal Order No. 339 Corr. (2019) as well as the fact that the Appeals Tribunal vacated the UNDT Judgment based on errors of fact and law. She also alleges that in his oral pronouncement of the outcome of her case, the Presiding Judge “misspelled few words” which reveals that “what he read was not his product”.

4. Ms. Nouinou alleges that the Secretary-General, the Administrative Law Section and the Appeals Tribunal, “all Males”, “conspire[ed]” to “sign [her] death penalty after using her bright skills” during her career with the Organization. Ms. Nouinou requests that an independent panel be assigned to “check/oversee the [a]ppeal’s credibility” and that the Appeals Tribunal “withhold her case” and not issue the judgment in her case.

5. In Motion Two, Ms. Nouinou “orders” the Appeals Tribunal to immediately remove, for her safety, Order No. 339 Corr. (2019) from the Appeals Tribunal website or to redact paragraph 3 of the Order. She again “urges the [Appeals] Tribunal to reconsider voiding the [a]ppeal that is a [s]ham”.

6. The Secretary-General contends that absent the recusal of the three judges assigned to the panel reviewing Ms. Nouinou’s appeal, there is no legal basis for the appeal to be reviewed by another panel. Additionally, there is no provision under the Appeals Tribunal Statute (Statute) or its Rules of Procedure (Rules) for the issuance of a written judgment to be withheld following the announcement of the outcome of an appeal. Finally, the Secretary-General submits that, at this time, there is no legal basis for the proposed reconsideration. The Statute and the Rules provide for applications for revision or correction only after the issuance of a written judgment. In the present case, the written judgment on appeal has not yet been issued by the Appeals Tribunal. The Secretary-General requests that the Appeals Tribunal reject the motions.

7. There is no legal basis for granting Ms. Nouinou the relief she seeks in Motion One. Article 10(5) of our Statute provides that the judgments of the Appeals Tribunal shall be binding upon the parties; and Article 10(6) of the Statute provides that the judgments of the Appeals Tribunal shall be final and without appeal, subject only to the provisions of Article 11 of the Statute. Article 11 permits for a revision of a judgment on the basis of the

discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Appeals Tribunal and the applicant for revision and provided the ignorance was not due to negligence. Additionally, clerical errors, arithmetical mistakes and accidental slips or omissions may be corrected; and parties may apply for an interpretation of the meaning or scope of the judgment. The grounds raised by Ms. Nouinou do not fall into the category of permissible grounds for reconsideration stipulated in Article 11. Moreover, no written judgment has been issued at this stage. The Appeals Tribunal has merely made an oral pronouncement and provided brief reasons regarding the outcome of the appeal. In so far as Motion One might be regarded as an application in terms of Article 11 of the Statute, it is accordingly premature.

8. With regard to Motion Two, paragraph 3 of Order No. 339 Corr. (2019) states that Ms. Nouinou lost her short-term assignment in the Office of Counter-Terrorism which in her opinion put her in “difficult risky dangerous situation” in regard to her application for asylum. The redaction of evidence is only permitted where it is necessary to protect information of a confidential and sensitive nature. Ms. Nouinou provides no rational or coherent basis for concluding that the disclosure in Order No. 339 Corr. (2019) of her loss of employment or her applying for asylum is so sensitive as to override the requirement of judicial transparency.

9. In the result, both motions fall to be dismissed.

IT IS HEREBY ORDERED that Motion One and Motion Two filed by Ms. Nouinou **ARE DENIED**.

Original and Authoritative Version: English

Dated this 1st day of May 2019
in Cape Town, South Africa.

(Signed)
Judge John Raymond Murphy,
Duty Judge

Entered in the Register on this 2nd day
of May 2019 in New York, United States.

(Signed)
Weicheng Lin, Registrar