



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2021-1508

Ravi Karkara

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 420 (2021)

1. On 5 November 2020, the United Nations Dispute Tribunal (UNDT) in New York issued Judgment No. UNDT/2020/188 in the case of *Karkara v. Secretary-General of the United Nations*, whereby the UNDT rejected Mr. Ravi Karkara's application contesting the decision to dismiss him for serious misconduct.
2. On 6 January 2021, Mr. Karkara appealed the UNDT Judgment to the United Nations Appeals Tribunal (Appeals Tribunal). The Secretary-General filed his answer on 22 March 2021.
3. On 16 June 2021, Mr. Karkara filed a Motion for Submitting Documents as New Evidence, requesting that the Appeals Tribunal admit i) two letters captioned "Notice of Cease and Desist" that the Office of Legal Affairs (OLA) addressed to Mr. SL on 21 January 2021 and 20 May 2021, respectively, regarding the misuse of the United Nations name and emblem by the organization based in Canada that Mr. SL represents, and ii) two letters also dated 21 January 2021 and 20 May 2021, respectively, that the OLA addressed to the Permanent Mission of Canada to the United Nations, in which the OLA drew the latter's attention to the issue and seeking the latter's assistance in protecting the United Nations name and emblem. Mr. SL had filed a written complaint of sexual misconduct against Mr. Karkara and testified as a witness against Mr. Karkara before the Dispute Tribunal. Mr. Karkara states that he had confronted Mr. SL about the misuse of the United Nations name and emblem and the

misrepresentations, and Mr. SL subsequently concocted false allegations against him in retaliation. Mr. Karkara also states that Mr. SL's continued disregard of the notices of cease and desist goes directly to his credibility, and that the documents that he seeks to be adduced as evidence show that Mr. SL is not an honest person and he is capable of lying under oath.

4. On 28 June 2021, the Secretary-General filed his comments requesting that the Appeals Tribunal dismiss the motion. In his view, Mr. Karkara has failed to show exceptional circumstances warranting the introduction of the additional evidence. Moreover, he has failed to explain how the additional evidence that Mr. Karkara has submitted to impugn Mr. SL's credibility and honesty would be in the interest of justice and the efficient and expeditious resolution of the proceedings.

5. Pursuant to Article 2(5) of the Statute of the Appeals Tribunal and Article 10(1) of its Rules of Procedure (Rules), the Appeals Tribunal may receive additional evidence from a party "[i]n exceptional circumstances" "if that is in the interest of justice and the efficient and expeditious resolution of the proceedings" and if "the Appeals Tribunal determines that the facts are likely to be established with such additional documentary evidence" unless such evidence "was known to either party and should have been presented at the level of the Dispute Tribunal".

6. In the present case, the letters sought to be adduced as additional evidence revolve around the misuse of the United Nations name and emblem by an organization based in Canada that Mr. SL, a witness against Mr. Karkara, represents. Obviously, given that these letters were drawn up following the issuance of the impugned Judgment, Mr. Karkara could not have knowledge of that evidence or presented it to the UNDT.

7. However, this evidence is of little relevance to whether the UNDT erred in its decision on the lawfulness of the imposition of the disciplinary sanction of dismissal for serious misconduct, which was based, per the documents on file and the impugned Judgment, not only on Mr. SL's witness testimony but also on a plethora of other evidentiary material, i.e., witness statement from Mr. OA, WhatsApp exchanges between Mr. SL and Mr. Karkara, GPS time and location information relating to the incidents of sexual abuse, corroborating statement from third-party witnesses, and a forensic review of Mr. Karkara's work e-mail account. Mr. Karkara fails to demonstrate the exceptional

circumstances that would warrant the introduction of said letters on appeal. Additionally, he fails to provide any cogent explanation as to how these letters, which do not contain information relating to Mr. Karkara's case but refer to "Notices of Cease and Desist" by the United Nations to the Permanent Mission of Canada to the United Nations and the Organization situated in Canada and represented by Mr. SL, would be relevant to his appeal. His claim that he had confronted Mr. SL about the misuse of the United Nations name and emblem and the misrepresentations, and Mr. SL subsequently concocted false allegations against him in retaliation is not enough. In any event, the truthfulness, reliability and credibility of said evidentiary material as a whole will be the subject of judicial review on appeal by the Appeals Tribunal, depending on the grounds of appeal leveled by Mr. Karkara.

8. Moreover, in so far as Mr. Karkara may want to rely on these letters to argue against the credibility of Mr. SL's testimony as a witness, he ought to have pleaded it before the UNDT, where he could have presented the relevant evidence regarding his alleged confrontation with Mr. SL about the misuse of the United Nations name and emblem. There are no exceptional circumstances justifying the admission of these letters into the record at this stage or for opening an additional line of factual enquiry that should properly have been done in the UNDT proceedings. In this context, we recall that, neither the Statute nor the Rules provide for an appellant to submit any pleadings other than those set forth in the Rules. Articles 8 and 9 of the Rules provide for an appellant to file an appeal form and an accompanying appeals brief, and for a respondent to submit an answer form and an accompanying answer brief. Therefore, Mr. Karkara has not presented evidence of exceptional circumstances upon which the Appeals Tribunal can grant his request in accordance with the provisions of Article 2(5) of the Statute.

IT IS HEREBY ORDERED that Mr. Karkara's motion is **DENIED**.

Original and Authoritative Version: English

Dated this 11th day of August 2021
in Athens, Greece.

(Signed)
Judge Dimitrios Raikos

Entered in the Register on this 12th day
of August 2021 in New York, United States.

(Signed)
Weicheng Lin, Registrar