



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2022-1653

Koffi Gilles Wilfried Amani

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

Order No. 473 (2022)

1. On 23 November 2021, the Dispute Tribunal issued Judgment No. UNDT/2021/137 (the Impugned Order or the UNDT Judgment) in the matter of *Amani v. Secretary-General of the United Nations*, whereby Mr. Amani's application was dismissed. Mr. Amani had challenged the decision to separate him from service on disciplinary grounds without compensation in lieu of notice and 25 per cent of the termination indemnity that would ordinarily be due to him.
2. On 23 February 2022, Mr. Amani filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal) challenging the UNDT Judgment. On 25 April 2022, the Secretary-General filed an answer to the appeal and a cross-appeal.
3. On 18 August 2022, Mr. Amani filed a "Motion for Interim Measures," (the Motion) in relation to the Impugned Order. In the Motion, Mr. Amani submits that the appropriate course of action should have been to have kept him "on duty" whilst investigating the matter and before deciding to launch a disciplinary process, but that instead he was placed on Administrative Leave Without Pay and then his contract was terminated, causing harm to his career, health and family. Mr. Amani requests a number of measures to end such harm, namely: reinstatement with compensation for loss of salary, entitlements, benefits and allowances; recovery of legal costs; expedited payments to be made to him for entitlements withheld during the disciplinary process; and compensation.

4. On 29 August 2022, the Secretary-General filed his response. The Secretary-General submits that the relief requested does not meet the requirements of Article 9(4) of the UNAT Statute and that Mr. Amani has not shown any likelihood of irreparable harm. The Secretary-General requests UNAT to dismiss the Motion. Alternatively, should the UNAT decide to grant the Motion, the Secretary-General requests an opportunity to file a submission.

5. Article 9(4) of the Statute provides that “[a]t any time during the proceedings, the Appeals Tribunal may order an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal”.

6. As set out in the law, in order for an interim measure to be granted, two requirements must be fulfilled, as the requested order should: i) provide temporary relief to either party to prevent irreparable harm; and ii) maintain consistency with the UNDT judgment.

7. In his Motion, Mr. Amani requests reinstatement to his previous position, together with his reintegration into the pension fund and reinstatement of his annual leave balance, as well as the recovery of the expenditures for legal representation and compensation for moral damages and loss of career opportunities. These requests cannot be considered to be “temporary relief to prevent irreparable harm”, but rather they are additional requests to Mr. Amani’s main appeal already on the docket for the upcoming Fall Session, but yet to be decided by the Appeals Tribunal.

8. What is more, some of the requests in the Motion repeat the remedies sought by Mr. Amani in his application to the UNDT, all of which were eventually dismissed by the UNDT Judgment. Therefore, even though Mr. Amani is correct in his argument that the UNDT Judgment found that there was insufficient evidence showing that he had breached the Ivorian Law or committed fraud in 2007, it is also true that the UNDT found that there was sufficient evidence that Mr. Amani had submitted false information in his personal history profile (PHP). The UNDT also found that this action alone amounted to misconduct justifying the disciplinary measure of separation from service with compensation in lieu of notice, and with 25 per cent of the termination indemnity

otherwise applicable. The UNDT further found that Mr. Amani's due process rights had been respected and that the sanction imposed was proportionate to the offence.

9. After having carefully examined the motion, I find that Mr. Amani's Motion for interim measures does not seek to provide temporary relief to him as it presupposes a thorough and full assessment of his appeal. Nor does his Motion intend to maintain consistency with the UNDT Judgment, as the latter disposed of the case against Mr. Amani's interests.

10. Therefore, the Motion must fail. Mr. Amani's issues raised in his appeal shall be determined in the collegiate form prescribed by Article 10 of the Appeals Tribunal Statute.

IT IS HEREBY ORDERED that Mr. Amani's "Motion for Interim Measures" pending proceedings is **REJECTED**.

Original and Authoritative Version: English

Dated this 7th day of September 2022
in Bournemouth, United Kingdom.

(Signed)
Judge Martha Halfeld,
Presiding

Order published and entered in the Register on this
7th day of September 2022 in New York, United
States.

(Signed)
Katrin May Lueken,
Officer-in-Charge