



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2024-1924

ABA
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

Order No. 565 (2024)

1. On 17 May 2024, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) issued Order No. 054 (GVA/2024) in the matter of *Applicant v. Secretary-General of the United Nations*, Case No. UNDT/GVA/2023/039. In this case, the staff member (ABA)¹ is contesting the disciplinary measure of demotion by one grade with deferment for three years of consideration for eligibility for promotion, and a decision requiring him to commence gender sensitivity training. These disciplinary measures were imposed based on ABA's alleged sexual harassment of a supervisee (VO1).
2. During pre-trial proceedings, the Dispute Tribunal reviewed the parties' proposals for witnesses at a hearing on the merits. The UNDT assessed that testimony from VO1, ABA, and two other individuals, would be helpful to the determination of the disputed facts.
3. With respect to the testimony of VO1, the Dispute Tribunal held in Order No. 54 that her testimony would be held *in camera*, that she would not be named during the proceedings or the UNDT Judgment, and that ABA would not be virtually present during VO1's testimony.²

¹ The appellant was granted anonymity before the UNDT. See Order No. 054 (GVA/2024), para. 39(g). For the purposes of this Appeals Tribunal Order his anonymity is maintained and he is assigned a three-letter substitute "ABA", which has no relationship to his real name.

² UNDT Order No. 054 (GVA/2024), para. 27.

4. On 20 May 2024, ABA filed a motion with the Dispute Tribunal requesting reconsideration of that portion of Order No. 54 in respect of the testimony of VO1. ABA requested that he be permitted to be virtually present during VO1's testimony.

5. On 22 May 2024, in Order No. 056 (GVA/2024) the Dispute Tribunal rejected ABA's request for reconsideration and concluded that it was in the best interests of the proceedings to accommodate VO1, and that ABA would not be permitted to be virtually present during her testimony.³

6. On 27 May 2024, ABA filed an interlocutory appeal with the United Nations Appeals Tribunal (Appeals Tribunal) challenging the foregoing Order Nos. 54 and 56. The appeal was registered as UNAT Case No. 2024-1924. ABA requested that the UNAT grant his request to be present during the merits hearing while VO1 testifies so that he can assist his counsel. ABA stated that he would agree not to have his camera and microphone on and that he would not talk to VO1 during her testimony.

7. On 27 May 2024, ABA also filed a motion to suspend the UNDT proceedings in Case No. UNDT/GVA/2023/039, pending the Appeals Tribunal's consideration of his interlocutory appeal.

8. On 28 May 2024, the Dispute Tribunal granted ABA's request for suspension, reasoning that because the interlocutory appeal concerned the Dispute Tribunal's arrangements for the upcoming hearing on the merits "a suspension of proceedings is justified by reasons of judicial economy. To proceed otherwise would risk the integrity of the present proceedings".⁴

9. On 30 May 2024, ABA filed a motion for expedited consideration of his interlocutory appeal with the UNAT, requesting that the interlocutory appeal be considered at the Appeals Tribunal's Fall 2024 session, or earlier. ABA requests expedited consideration of his interlocutory appeal so that the hearing on the merits of the underlying case before the UNDT may proceed as expeditiously as possible.

³ *Applicant v. Secretary-General of the United Nations*, Order No. 056 (GVA/2024), para. 23.

⁴ *Applicant v. Secretary-General of the United Nations*, Order No. 062 (GVA/2024), para. 19.

10. On 24 June 2024, the Secretary-General submitted comments on the motion. The Secretary-General “has no objections to the motion”.

11. Under Article 18bis of the Appeals Tribunal Rules of Procedure, the President may issue any order which appears to be appropriate for the fair and expeditious management of the case and to do justice to the parties.

12. Given that the UNDT has suspended proceedings until the Appeals Tribunal addresses ABA’s interlocutory appeal, and the Respondent has no objection, I find that it serves the interest of justice and the expeditious hearing of cases for the Appeals Tribunal to consider this appeal at the Fall Session.

IT IS HEREBY ORDERED that the Appellant’s Motion for Expedited Consideration of UNAT Appeal No. 2024-1924 is **GRANTED**, and it will be reviewed in the UNAT’s 2024 Fall Session.

Original and Authoritative Version: English

Decision dated this 25th day of June 2024
in New York, United States.

(Signed)
Judge Gao Xiaoli
President

Entered in the Register on this 25th day of
June 2024 in New York, United States.

(Signed)
Juliet E. Johnson, Registrar