



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2024/066  
Judgment No.: UNDT/2025/032  
Date: 2 June 2025  
Original: English

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**Before:** Judge Francesco Buffa

**Registry:** Geneva

**Registrar:** Liliana López Bello

AKHTAB

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Self-Represented

**Counsel for Respondent:**

Jan Schrankel, UNHCR

Marrietta Hristovski, UNHCR

## **Introduction**

1. The Applicant, a former Assistant Child Protection Officer working with the Office of the United Nations High Commissioner for Refugees (“UNHCR”), filed an application contesting a decision to close her complaint of abuse of authority, mistreatment and retaliation against three of her former supervisors, namely Ms. JR, Ms. HP and Mr. JPB.

2. For the reasons set forth below, the application is rejected.

## **Factual background**

3. The Applicant joined UNHCR on 5 April 1998 as a Protection Assistant at G-6 level, based in Bangladesh.

4. On 27 May 2005, she resigned and separated from UNHCR.

5. On 18 January 2018, the Applicant rejoined UNHCR on a fixed-term appointment (“FTA”) as an Assistant Child Protection Officer, still based in Bangladesh.

6. By email dated 18 September 2023, UNHCR sent to the Applicant a letter dated 1 September 2023, notifying her of the intention to discontinue her position, effective 1 January 2024.

7. On 30 September 2023, UNHCR sent to the Applicant another email with an attached letter dated 28 September 2023, notifying her of the decision to discontinue her position as of 1 January 2024.

8. On 28 November 2023, the Applicant requested management evaluation of the decision to discontinue her position.

9. On 4 December 2023, the Applicant filed a complaint with UNHCR’s Inspector General’s Office (“IGO”), alleging mistreatment and abuse of authority by her former supervisors, namely Ms. JR, Mr. JPB, and Ms. HP.

10. In her complaint, the Applicant further indicated that she strongly felt that the decision to discontinue her position was tainted by bias and ill-motive; and was retaliatory and an abuse of power/authority by the three named supervisors.

11. On 22 December 2023, the Applicant filed an application for suspension of action (“SOA”), pending management evaluation, of the decision to discontinue the position.

12. By Order No. 171 (GVA/2023), issued on 28 December 2023, the Tribunal rejected the SOA application.

13. The Applicant separated from UNHCR on 31 December 2023.

14. On 23 March 2024, the Applicant filed an application seeking a reversal of the decision to discontinue her position. The application was registered as Case No. UNDT/GVA/2024/009.

15. On 11 June 2024, the IGO informed the Applicant of its decision not to undertake an investigation in respect of her complaint filed on 4 December 2023 (the contested decision). The IGO indicated:

Thank you for reaching out to the IGO and sharing your concerns. Your complaint has been given due consideration and is closed in accordance with paragraph 47 (b) of the Administrative Instruction on Conducting Investigations in UNHCR (UNHCR/AI/2019/15). That is to say, the preliminary assessment concluded that the matter does not meet the *prima facie* threshold of constituting potential misconduct.

16. On 8 August 2024, the Applicant requested management evaluation of the contested decision.

17. On 28 August 2024, the Deputy High Commissioner completed the management evaluation and upheld the contested decision.

### **Procedural background**

18. On 24 November 2024, the Applicant filed the present application.

19. The Respondent filed a reply on 20 December 2024.

20. On 1 February 2025, the present case was assigned to the undersigned Judge.

21. By Order No. 5 (GVA/2025), issued on 10 February 2025, the Tribunal instructed the parties, *inter alia*, to file their requests and observations on evidence.

22. On 18 February 2025, the Applicant informed the Tribunal that she could not present any witnesses “due to significant safety concerns and professional risks. All potential witnesses are employed at UNHCR, and their participation in this matter could expose them to retaliation or other risks affecting their safety and career prospects. Under these circumstances, [she was] unable to provide witness testimony”. However, she indicated that she was prepared to personally participate in the proceedings and to provide, if requested, her own testimony regarding the facts of the case. The Applicant also submitted her comments to the Respondent’s reply and a copy of a medical certificate.

23. On the same date, the Respondent submitted that based on the parties’ submissions to date and the evidence on record, the case could be determined without holding a hearing.

24. By Order No. 12 (GVA/2025), issued on 19 February 2025, the Tribunal instructed the parties to file their respective closing submissions, which they did on 28 February 2025.

## **Submissions**

### *Applicant’s submissions*

25. The Applicant submits that her second reporting officer, Ms. JR, systematically abused her authority by fostering a hostile work environment, obstructing the Applicant’s professional development, and violating UNHCR policies. In particular, the Applicant complains of having been submitted to a pattern of retaliation: “the mistreatment began in July 2022, when Ms. JR took over as the second reporting officer. The Applicant argues that Ms. JR systematically

altered her responsibilities, excluded her from key functions, and created operational barriers.

26. By way of example, the Applicant states that she was subjected to professional mistreatment and hostile supervision, including weekly meetings held in open spaces that resembled interrogations, exclusively targeting her and causing humiliation. She was systematically excluded from critical communications, meetings, and responsibilities essential to her role and faced discriminatory treatment, with her work subjected to unequal scrutiny compared to that of her colleagues. Additionally, she was subjected to unfair changes to her roles and responsibilities. Her key tasks were arbitrarily reassigned without consultation, and her performance objectives were unilaterally and drastically altered. Tasks aligned with her expertise were reassigned to junior or newly hired staff, undermining her professional standing.

27. She further complains of having been stripped of her supervision responsibilities for two Senior Protection Assistants and removed from camp duties, of having been submitted to public mistreatment, including shouting, rudeness, and dismissive attitudes in team meetings, demeaning her, and creating an unprofessional workplace. She also complains that her supervisor made drastic changes to her ePAD objectives for 2022 without proper consultation, notably making Best Interest Determination (“BID”) one of her core objectives, and did so late in the year.

28. She also adds that a new post for an Assistant Protection Officer, BID, was advertised in November 2022, mirroring her responsibilities, which was connected with her post's discontinuation. The mistreatment included propaganda, such as rumors of her termination by UNHCR, abusive and unsubstantiated performance assessments by her FRO, and exclusion from official events; all these facts led to lost job opportunities with other United Nations agencies.

29. The Applicant underscores that following her supervisors' misconduct as narrated above, she filed a complaint with the IGO. However, despite the

seriousness of her allegations, the IGO closed the case without conducting a thorough investigation.

30. As remedies, the Applicant requests:

- a. Thorough investigation of her complaint regarding harassment and abuse of authority by her supervisors;
- b. Referral of her three supervisors and the IGO Chief of Investigations to the High Commissioner of UNHCR, in accordance with art. 10.8 of the Dispute Tribunal's Statute, for their deliberate violation of the fundamental principles of the Organization; and
- c. Compensation for the moral damage and professional harm caused to her.

*The Respondent's submissions*

31. The Respondent's case is that the IGO has discretion regarding when to investigate, and the IGO did not err in concluding that the Applicant's complaint lacked sufficient evidence of misconduct.

32. Relying on para. 48 of UNHCR/AI/2019/15 on Administrative Instruction on Conducting Investigations in UNHCR, ("AI on Investigations"), the Respondent contends that the IGO has sole discretion to decide what to do with a complaint following preliminary assessment.

33. The Respondent also seeks to rely on *Ross* 2023-UNAT-1336, paras. 23 and 29, where the United Nations Appeals Tribunal ("UNAT") held that IGO has:

discretion to decide whether to investigate the alleged prohibited conduct on the basis of the information at its disposal. It is required to exercise that discretion legally and rationally.

34. In line with the above, the Respondent further relies on *Nadeau* 2017-UNAT-733, para. 33, where UNAT reasoned that:

Only in particular situations, i.e. in case of a serious and reasonable accusation, does a staff member have a right to an investigation against another staff member which may be subject to judicial review[.]

35. The Respondent argues that a fact-finding investigation may only be undertaken if there are “sufficient grounds” or “reasons to believe that a staff member has engaged in unsatisfactory conduct”. Consequently, if there are no such grounds or reasons, the Administration should not initiate an investigation against a staff member.

36. The Respondent, thus, maintains that in considering the allegations in the complaint, the IGO applied the correct legal framework, appropriate procedures, and authority. Further, the AI on Investigations does not create an obligation on the part of the IGO to proceed with a formal investigation into all complaints. There is no evidence that the IGO misapplied its authority under the relevant internal legal framework, and the application adduces no evidence of improper motive on the part of the IGO.

37. In response to the Applicant’s claim that she was not given sufficient information regarding the closure of her complaint by IGO, the Respondent submits that the response from the IGO specifically referenced paragraph 47(b) of the AI on Investigations, highlighting the consideration of “[w]hether the alleged acts or omissions, if established, could amount to misconduct.” As such, the Applicant was indeed provided sufficient justification regarding the closure of the preliminary assessment by the IGO. The Respondent adds that in deciding not to open an investigation, the IGO considered the information the Applicant provided in her complaint, against the IGO’s mandate and the formal criteria in assessing misconduct. The IGO considered that the complaint did not provide sufficient grounds for the alleged prohibited conduct but instead amounted to disagreement on work performance or other work-related issues.

38. The Respondent also submits that the complaint did not show signs of misconduct by the Applicant’s managers, but instead amounted to a workplace

grievance, based on, *inter alia*: (i) her performance issues; (ii) the way her managers assigned her tasks; and (iii) reduced satisfaction in her scope of work.

39. Therefore, the discretion exercised by the IGO in not opening an investigation was legal and rational, and based on the information at its disposal. Moreover, the Applicant received a reasonable explanation for the IGO's decision to close the complaint.

40. Regarding the Applicant's contention that her position was abolished as part of the mistreatment by her supervisors, the Respondent states that the Applicant's fixed-term appointment expired on 31 December 2023 and that she was not terminated from UNHCR pursuant to staff rule 9.6(c). As the Applicant was separated following the expiry of her fixed-term appointment, and not terminated, she was not entitled to the remedies available to staff whose positions were terminated pursuant to staff rule 9.6(c).

41. Finally, the Respondent submits that the application is without merit and the Applicant is not entitled to any of the remedies sought. He points out that the Applicant did not file any credible medical evidence of moral or psychological harm, as she claims.

### **Consideration**

#### *Scope of the review.*

42. The Applicant challenges the administrative decision not to investigate her complaint of abuse of authority, mistreatment, and retaliation.

43. In rendering its judgment, the Tribunal is not called to conduct a fresh investigation into the initial complaint in cases of harassment and abuse of authority (see *Messinger* 2011-UNAT-123, para. 27).

44. Nor is it the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to him, or to substitute its own decision for that of the Secretary-General. Instead, it's for the Tribunal to verify if the challenged decision was lawful or not.

45. In *Raschdorf* 2023-UNAT-1343, para. 41 (see also *Abdeljalil* 2019-UNAT-960, para. 23, *Nouinou* 2019-UNAT-902, para. 47, and *Likukela*, 2017-UNAT-737, para. 28), the Appeals Tribunal stressed that:

When judging the validity of the Secretary-General's exercise of discretion in administrative matters, the Dispute Tribunal determines if the decision is legal, rational, procedurally correct, and proportionate. The UNDT can consider whether relevant matters have been ignored and irrelevant matters considered and also examine whether the decision is absurd or perverse. But it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to him. Nor is it the role of the Dispute Tribunal to substitute its own decision for that of the Secretary-General.

46. In *Sanwidi* 2010-UNAT-084, para. 42, the Appeals Tribunal held that the role of the Dispute Tribunal is:

[T]o determine if the administrative decision under challenge is reasonable and fair, legally and procedurally correct, and proportionate. As a result of judicial review, the Tribunal may find the impugned administrative decision to be unreasonable, unfair, illegal, irrational, procedurally incorrect, or disproportionate. During this process, the Dispute Tribunal is not conducting a merit-based review, but a judicial review. Judicial review is more concerned with examining how the decision-maker reached the impugned decision and not the merits of the decision-maker's decision.

#### *Applicable law*

47. Paragraph 47 of the AI on Investigations provides that the preliminary assessment should consider the following factors:

- a. Whether the matter falls within the mandate of the IGO;
- b. Whether the alleged acts or omissions, if established, could amount to misconduct;
- c. Whether similar reports have been received to ensure that all of the available information is duly considered in the assessment and to mitigate possible risks the complaint represents for UNHCR and individuals, while making optimal use of IGO resources;

- d. Whether there is a reasonable likelihood that an investigation would reveal sufficient and reliable evidence from internal and external sources, as appropriate, to determine the facts of the matter, or whether the conditions for a Closure Note (see Section X.B, paragraph 93) already exist at the time of the preliminary assessment;
- e. Whether referral to another entity or other resolution process would be more appropriate in the circumstances;
- f. Whether there are any security concerns, risks, matters of urgency, contractual constraints (for example, terms of agreements with suspected third parties), and/or other limitations; and
- g. Any other factor(s) reasonable in the circumstances.

48. Paragraph 48 of the same AI on Investigations provides that upon conclusion of the preliminary assessment, the Head of the Investigation Service shall decide to either:

- a. Initiate an investigation of all or part of the matters reported;  
or
- b. Not initiate an investigation and provide the reason thereof.  
The reason shall be explained in the assessment[.]

49. The UNHCR Policy on Discrimination, Harassment, Sexual Harassment, and Abuse of Authority (UNHCR/HCP/2014/4), particularly sections 4.1.1 and 4.1.2 emphasize the obligation of UNHCR to prevent harassment and abuse of authority. As defined in section 5.4 of UNHCR/HCP/2014/4, abuse of authority includes intimidation, coercion, and discrimination in workplace decisions such as assignments, promotions, and performance evaluations. The systematic removal of the employee's responsibilities, exclusion from decision-making processes, and manipulated performance assessments (the facts the Applicant complains of in this case) clearly fall within this category.

### *Merits*

50. The Appeals Tribunal has clarified that only in a case of "serious and reasonable accusation, does a staff member have a right to an investigation against

another staff member which may be subject to judicial review” (see *Nadeau*, para. 33). Indeed, a fact-finding investigation may only be undertaken if there are “sufficient grounds” or, “reason[s] to believe that a staff member has engaged in unsatisfactory conduct.” (*Id.*, para 34. see also; *Okwir* 2022-UNAT-1232, paras. 54 and 55).

51. The Tribunal is well aware that in *Ostensson* UNDT/2011/050, it emphasized that investigations should not be narrowly interpreted and that patterns of incidents must be assessed collectively, and that in *Andronov* (United Nations Administrative Tribunal Judgment No. 1157, *Andronov* (2004)), the former United Nations Administrative Tribunal confirmed that the lack of a proper investigation results in a direct violation of the Applicant’s right to a harassment-free workplace and access to justice.

52. However, the Tribunal finds that in the present case, the Applicant did not provide evidence of something other than mere disagreement on work performance or ordinary work-related issues, which does not entail, in itself, any misconduct.

53. The Tribunal is of the view that, even considering that a pattern of incidents, even if individually minor, may collectively constitute prohibited conduct, the Applicant failed to demonstrate a clear pattern of unlawful behavior. An investigation ought to be initiated only if the alleged acts or omissions, if established, could amount to misconduct within the meaning of para. 47 (b) of the AI on investigations.

54. As the Applicant failed to demonstrate a clear pattern of unlawful behavior against her, the incidents resulting from the documents provided to the Tribunal can only be considered workplace disagreements rather than prohibited conduct.

55. In the case at hand, no fact shows that the administrative discretion not to start an investigation process was not exercised in good faith and was in violation of the applicable laws (see *Jafari* 2019-UNAT-927, para. 31).

56. The Applicant also failed to demonstrate that any improper performance evaluations received were not a mere reflection of actual performance issues but were instead part of a systemic harassment process directed by her supervisors.

57. Further the claims related to the discontinuation of post and the non-renewal of contract, which have been the subject of a different and independent application, are in the present case recalled only as elements of the pattern of the alleged harassment, and consequently are to be dismissed in accordance with the general assessment of the Applicant's working conditions.

58. The Tribunal agrees with the Applicant that the present case fundamentally regards alleged harassment and retaliation, which were supposedly used to undermine her professional standing. However, the pattern of harassment and retaliation were not demonstrated in the case.

### **Conclusion**

59. In view of the foregoing, the application is dismissed.

*(Signed)*

Judge Francesco Buffa

Dated this 2<sup>nd</sup> day of June 2025

Entered in the Register on this 2<sup>nd</sup> day of June 2025

*(Signed)*

Liliana López Bello, Registrar, Geneva