



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2010/105

Order No.: 85 (GVA/2011) Corr.1

Date: 25 May 2011

Original: English

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**Before:** Judge Thomas Laker

**Registry:** Geneva

**Registrar:** Víctor Rodríguez

LJUNGDELL

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON AN APPLICATION TO FILE A  
FRIEND-OF-THE-COURT BRIEF**

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**Counsel for Applicant:**  
Self-represented

**Counsel for Respondent:**  
Shelly Pitterman, UNHCR

## **Introduction**

1. On 20 December 2010, after having been granted an extension of time to submit a full application, the Applicant, a staff member of the United Nations High Commissioner for Refugees (“UNHCR”), filed an application before the Tribunal contesting the decision not to select her for the post of Senior Resettlement Coordinator in Geneva at the P-5 level following the abolition of the post of Deputy Representative in Malaysia against which she had been appointed.
2. On 24 January 2011, the Respondent submitted his reply.
3. On 7 February 2011, the Applicant submitted her observations on the Respondent’s reply.
4. On 15 February 2011, a directions hearing took place in which the Applicant and Counsel for the Respondent participated.
5. On 5 May 2011, the UNHCR Staff Council submitted to the Tribunal an application to file a friend-of-the-court brief.
6. On 9 May 2011, the Tribunal transmitted the above-mentioned application to the parties. They were requested to submit any objections by Thursday, 12 May 2011. By submission dated 12 May 2011, the Respondent opposed the application to file a friend-of-the-court brief.

## **Consideration**

7. According to article 2.3 of the Tribunal’s Statute and article 24 of its Rules of Procedure, a staff association may submit a signed application to file a friend-of-the-court brief. The President or the judge hearing the case may grant the application if it considers that the filing of the brief would assist the Tribunal in its deliberations.
8. The Appeals Tribunal established in Judgment *Masri* 2010-UNAT-098 that:

[an] application [to file a friend-of-the-court brief] will only be granted if the proposed brief would assist the Appeals Tribunal in its deliberations.

The purpose of a friend-of-the-court brief will generally be to address matters other than the law. The Appeals Tribunal is composed of experienced, professional Judges who are able to ensure that proper deliberations are held concerning the general principles of law that are applicable in the case with the benefit of the parties' submissions, the UNDT Judgment and the judicial work of the Tribunal itself, without the need for additional contributions from friends-of-the-court.

If the issues in a case raise very specific or particular questions of law which are not generally within the expertise of counsel or the Judges, an application to file a friend-of-the-court brief may be granted.

9. In the case at hand, the Tribunal considers that the friend-of-the-court brief would not assist it in its deliberations. The Tribunal is of the view that the issues at stake can be dealt with on the basis of the submissions made by the parties and the case record. The Tribunal does not find particular questions of law outside its expertise in which the brief may be helpful. As the Appeals Tribunal held in Judgment *Sanwidi* 2010-UNAT-084 "the facts and the legal issues in this case are not so complex such that the proposed brief would assist the Tribunal in its deliberations".

10. The UNHCR Staff Council in its application to file a friend-of-the-court brief states that it has pertinent information on general staff concerns to share with the Tribunal, that the outcome of this case would provide useful guidance for UNHCR staff with regard to the burden of proof in discrimination and abuse of authority cases and that the decision on the receivability of the Applicant's case concerning the abolishment of her post may impact on the future caseload of the Tribunal. The Tribunal deems that the Staff Council points out issues of general interest, but that it failed to demonstrate in which way the filing of a friend-of-the-court brief would assist the Tribunal in the adjudication of the present case.

### **Conclusion**

11. For the reasons stated above, the application to file a friend-of-the-court brief is rejected.

*(Signed)*

Judge Thomas Laker

Dated this 25<sup>th</sup> day of May 2011

Entered in the Register on this 25<sup>th</sup> day of May 2011

*(Signed)*

Víctor Rodríguez, Registrar, Geneva