



Before: Judge Francesco Buffa

Registry: Geneva

Registrar: René M. Vargas M.

CONTEH

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Joseph Amisi

Counsel for Respondent:

Elizabeth Brown, UNHCR

Francisco Navarro, UNHCR

Introduction

1. By an application filed on 28 March 2018, the Applicant, a former staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”), contests the decision to separate him from service with compensation in lieu of notice and without termination indemnity.

2. On 30 April 2018, the Respondent filed his reply arguing that the application is without merit as the Organization considered all relevant facts, applied the relevant norms and followed established procedures in reaching the contested decision.

Consideration

3. The Tribunal is called to assess whether:

- a. The facts have been established on the required standard of proof;
- b. The established facts constitute misconduct; and
- c. The disciplinary measure is proportionate to the gravity of the Applicant’s misconduct.

4. The Tribunal notes that solely the facts mentioned in para. 44 of the investigation report constitute the basis of the disciplinary measure imposed on the Applicant. Therefore, the Tribunal considers appropriate to limit its review to those facts. Although they have already been assessed in the investigation report, both parties may ask to provide, if useful and relevant, further evidence on them.

5. Furthermore, for the assessment of the proportionality issue, the Tribunal, being aware that the facts in question are related to the Applicant’s private life, finds it relevant to also collect evidence about:

a. The work relationship between the Applicant and the alleged victims of the above-referred facts; and

b. The consequences of said facts on the work activities.

6. In view of the above, the parties are hereby instructed to identify the witnesses that could be called and to indicate the relevant issues on which each of them could testify. The parties are also instructed to produce any further documents they consider relevant to the case, including written witness statements.

7. Having considered the parties' pleadings, the Tribunal finds it appropriate, for a fair and expedited disposal of the case, to call the parties for a case management discussion ("CMD") pursuant to art. 19 of its Rules of Procedure. The scope of the CMD will be to discuss and identify with as much precision as possible the essence of the claim and the core issues requiring factual and/or legal determination by the Tribunal, and to deal with any other matter relating to the consideration and determination of the claim.

8. The parties are advised that should the Tribunal decide to hold a hearing on the merits, it would tentatively take place between the 31 March and 3 April 2020. Counsel are therefore asked to enquire as to the availability of their potential witnesses, if any, for this period.

Conclusion

9. In view of the foregoing, it is ORDERED that:

a. A CMD will be held on **Wednesday, 25 March 2020 at 10 a.m. (Geneva time)**;

b. The parties are to come prepared to deal with all relevant aspects of the case as per paras. 4 to 8 above;

c. By **Friday, 13 March 2020 (COB Geneva time)**, the parties are to file any further document that they deem relevant to the case, including written witness statements;

Case No. UNDT/GVA/2018/028

Order No. 30 (GVA/2020)

d. By **Friday, 13 March 2020**, the parties are to file a list of potential witnesses that shall indicate:

- i. The relevant issues on which each of them would testify; and
- ii. Their availability for the tentative date of the hearing noted in para. 8 above.

(Signed)

Judge Francesco Buffa

Dated this 10th day of March 2020

Entered in the Register on this 10th day of March 2020

(Signed)

René M. Vargas M., Registrar, Geneva