



Before: Judge Eleanor Donaldson-Honeywell

Registry: Geneva

Registrar: René M. Vargas M.

HILAIRE-MADSEN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Robbie Leighton, OSLA

Counsel for Respondent:

Yun Hwa Ko, UNFPA
Katrina Waiters, UNFPA

Introduction

1. At the time of the Application, the Applicant held a fixed term appointment at the G-5 level with the United Nations Population Fund (“UNFPA”). She served as a Procurement Assistant within the Procurement Service Branch (“PSB”) and was based in Copenhagen.
2. She was separated from service at UNFPA on 31 January 2019 on grounds of unsatisfactory performance. On 17 April 2019, she filed an application before the United Nations Dispute Tribunal to challenge the Respondent’s decision of non-renewal of her appointment.
3. On 20 May 2019, the Respondent filed his reply to the application. The Respondent contends that the impugned decision was lawful in substance and procedure, and that the Applicant’s claims of bias and other extraneous factors are unsubstantiated.
4. On 2 February 2021, the Tribunal issued Order No. 18 (GVA/2021) setting this matter down for a case management discussion (“CMD”), which took place as scheduled on 12 February 2021.

The Discussion

5. The Tribunal began by suggesting the importance of considering the possibility of alternative dispute resolution in all cases and urged parties not to dismiss it as an option.
6. The dispute between the parties was summarised by the Tribunal as giving rise to the following issues that are to be determined:
 - a. Was the reason for the initial 8 October 2018 non-renewal decision properly supported by evidence of unsatisfactory performance?
 - b. After completion of the rebuttal process, was the Respondent required to consider an appraisal for the year 2018 before making the challenged decision on 27 December 2018?

c. Was the assignment of a new Supervisor to the Applicant in August 2018 a remedial measure, the outcome of which should have been taken into account before deciding on non-renewal or was this an alternate arrangement with a limited workplan to allow for finalization of the Applicant's 2017 appraisal?

d. Was there evidence of bias on the part of the Supervisor responsible for the Applicant's 2016 and 2017 appraisal's such that her non-renewal was based on improper motives?

7. Counsel for the Applicant submitted that it was his view that some of the issues listed by the Tribunal might be framed differently by him. He also raised a concern that new information about the limited nature of the 2018 workplan was included in the Respondent's Reply.

8. Having heard the Tribunal's characterisation of the issues, the Respondent had nothing to add to the issues to be determined but made explanatory comments in response to the Applicant's concerns about the new information in the Respondent's Reply. The Applicant sought to be permitted to file further submissions in response to the new information.

9. Neither party objected to the Tribunal's proposition that this matter can be decided on the basis of their written submissions.

Considerations and Order

10. The Tribunal directed the Applicant to file her further submissions by **Friday, 26 February 2021**.

(Signed)

Judge Eleanor Donaldson-Honeywell

Dated this 15th day of February 2021

Entered in the Register on this 15th day of February 2021

(Signed)

René M. Vargas M., Registrar, Geneva