



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2019/026
UNDT/GVA/2019/053
Order No.: 50 (GVA/2021)
Date: 17 February 2021
Original: English

Before: Judge Eleanor Donaldson-Honeywell

Registry: Geneva

Registrar: René M. Vargas M.

ALTINGER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Victor Rodriguez

Counsel for Respondent:

Alan Gutman, AAS/ALD/OHRM, UN Secretariat

Introduction

1. The Applicant was the Regional Adviser on Climate Change at the Economic and Social Commission for Asia and the Pacific (“ESCAP”). She encumbered this post on a fixed-term appointment at the P-5 level and was based in Bangkok.
2. She has two applications before the United Nations Dispute Tribunal.
3. On 3 April 2019, she filed an application to challenge the Respondent’s decision to not renew her fixed-term appointment beyond 31 December 2018. This case is registered as UNDT/GVA/2019/026.
4. On 8 May 2019, the Respondent filed his reply and moved the court to strike out the application on grounds of receivability and on its merits.
5. On 5 September 2019, the Applicant filed an application challenging the Respondent’s decision to dismiss, without investigation and with unreasonable delay, her complaint pursuant to ST/SBG/2008/5 (Prohibition of discrimination, harassment, including sexual harassment and abuse of authority). This case is registered as UNDT/GVA/2019/053.
6. The Respondent filed his Reply to this application on 7 October 2019. It is the Respondent’s case that the impugned decision is legal, reasonable and procedurally fair, and that it was rational and reasonable for the responsible official to have decided as he did having examined the allegations in the complaint.
7. On 2 February 2021, the Tribunal issued Order No. 21 (GVA/2021) setting this matter down for a case management discussion (“CMD”).
8. The CMD took place, as scheduled, on 16 February 2021. The Applicant and Counsel acting for her were present, as was Counsel for the Respondent.

The Discussion

9. The Tribunal began by outlining the issues in both cases brought by the Applicant and sought the parties' views on the matters being consolidated.

10. The Applicant took the view that the two cases should be consolidated and adjudicated as one given the cross-cutting issues and fact pattern.

11. The Respondent took the position that the Tribunal should first rule on the issue of receivability raised in Case No. UNDT/GVA/2019/026, before deciding on consolidation of the matters.

12. On the issue of disclosure, the Applicant moved the Tribunal to order the Respondent to disclose material pertaining to the restructuring exercise which rendered the Applicant's post abolished.

13. The Respondent, for his part, moved the court to order the disclosure of material evidencing harm to support the Applicant's claims for moral damages. Counsel for the Respondent further moved the Tribunal to strike out certain aspects of the Applicant's case which he contends were not put before the decision maker at the time that the decision was made.

14. The Applicant moved the Tribunal for leave to file further submissions in response to the Respondent's filed reply and oral motions.

15. Having heard the parties' submissions, and having previously reviewed the record, the Tribunal strongly urged the parties to engage in settlement discussions with a view to having the dispute between them resolved without recourse to further litigation.

16. Should settlement discussions prove unsuccessful, the matter will be decided on the basis of the parties' written submissions. Neither party objected to this proposition.

Considerations and Order

17. Based on the discussion between the parties and the Tribunal, the Tribunal makes the following **DIRECTIONS**:

- a. Cases No. UNDT/GVA/2019/026 and UNDT/GVA/2019/053 are hereby consolidated; and
- b. The parties will engage in *inter partes* discussions and jointly advise the Tribunal of the status of those discussions by **Friday, 12 March 2021**.

18. Should settlement discussions fail, the parties will abide by the following deadlines for further case management:

- a. The Respondent will effect disclosure of the material sought by the Applicant by **Wednesday, 17 March 2021**;
- b. The Applicant will file her submissions in response to the Respondent's reply and, with it, the relevant material as proof of harm in support of her claims for moral damages, by **Friday, 19 March 2021**; and
- c. The Respondent will file his final and closing submission by **Friday, 26 March 2021**.

19. The Tribunal has carefully reviewed and considered the Respondent's submissions on the receivability of Case No. UNDT/GVA/2019/026 and finds that this application is receivable. The Tribunal's reasons for this finding will form part of the judgment that will be rendered at the conclusion of proceedings.

(Signed)

Judge Eleanor Donaldson-Honeywell
Dated this 17th day of February 2021

Entered in the Register on this 17th day of February 2021

(Signed)

René M. Vargas M., Registrar, Geneva