



Before: Judge Eleanor Donaldson-Honeywell
Registry: Geneva
Registrar: René M. Vargas M.

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT
AND NOTICE OF HEARING**

Counsel for Applicant:

George G. Irving

Counsel for Respondent:

Alistair Cumming, UNICEF

Introduction

1. The Applicant served on a permanent appointment as a Senior Adviser at the United Nations Children’s Fund (“UNICEF”).
2. On 28 December 2018, the Respondent informed the Applicant that he was being separated from service that day for abuse of authority, harassment and sexual harassment.
3. On 20 February 2019, the Applicant filed an application before the United Nations Dispute Tribunal to challenge the Respondent’s decision to dismiss him.
4. The Respondent filed his Reply on 25 March 2019. The Respondent argues that there is clear and convincing evidence of the Applicant’s misconduct and that the sanction imposed on him was proportionate.
5. On 4 February 2021, the Tribunal issued Order No. 25 (GVA/2021) setting this matter down for a case management discussion (“CMD”).
6. The CMD took place, as scheduled, on 17 February 2021 with Counsel for both parties present. The Applicant was not present at the discussion.

The Discussion

7. The Presiding Judge began by asking the parties to consider the prospect of *inter partes* settlement of the dispute at issue.
8. The issues were outlined as follows:
 - a. Was there clear and convincing evidence of the charges that were preferred against the Applicant;
 - b. Did those allegations properly amount to serious misconduct;
 - c. Did the Respondent adhere to the relevant procedural strictures in the disciplinary process;

- d. Was it proper for the Respondent to not interview some of the witnesses put forward by the Applicant;
- e. Was the sanction meted out proportionate; and
- f. Whether mitigating and aggravating circumstances were properly considered?

9. The Applicant moved the Tribunal to direct the Respondent to disclose the Applicant's performance appraisals for the years 2016 and 2017, and sought leave to introduce, for his part, three additional witness statements.

10. The Respondent told the court that he agrees with the issues as framed by the Tribunal and, in principle, is not averse to settlement discussions. He did however express some concern on whether the positions of the parties in this case lends itself to settlement.

11. Like the Applicant, the Respondent is of the view that an oral hearing may not be necessary in this case given the voluminous written record.

12. The Tribunal took the view that the parties should engage in efforts to resolve this matter *inter partes*, failing which it will require an oral hearing in which the Applicant testifies. The Tribunal left it up to the Respondent to decide who, if anyone, he would like to call.

Considerations and Order

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

- a. The parties will engage in *inter partes* discussions and jointly advise the Tribunal of the status of those discussions by **Wednesday, 3 March 2021**;
- b. Should settlement discussions fail, the parties will abide by the following deadlines for further case management:

i. The Respondent and the Applicant will effect reciprocal disclosure of the performance appraisals, list of Applicant's witnesses who were interviewed, evidence of harm in support of claims for compensation and additional witness statements by **Wednesday, 10 March 2021**; and

ii. The oral hearing is scheduled for **17 and 18 March 2021 at 12 p.m. (Geneva time)** using Microsoft Teams.

14. As the hearing is being held virtually with all parties appearing from their respective locations, the parties are requested to confirm to the Geneva Registry their contact details by **Friday, 12 March 2021 (COB Geneva time)**.

(Signed)

Judge Eleanor Donaldson-Honeywell

Dated this 18th day of February 2021

Entered in the Register on this 18th day of February 2021

(Signed)

René M. Vargas M., Registrar, Geneva