



Before: Judge Alexander W. Hunter, Jr.

Registry: Geneva

Registrar: René M. Vargas M.

IRAM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Raja Muhammad Farooq

Counsel for Respondent:

Mathias Schuster, UNICEF

Kevin Browning, UNICEF

Introduction

1. On 8 August 2020, the Applicant, a former Water, Sanitation and Hygiene (“WASH”) Officer, Field Office Karachi, United Nations Children’s Fund (“UNICEF”), filed an application contesting the disciplinary measure imposed on her of separation from service with compensation in lieu of notice and with termination indemnity, in accordance with UN Staff Rule 10.2(a)(viii).
2. On 9 September 2020, the Respondent filed his reply.
3. On 18 October 2020, the Applicant filed a rejoinder.
4. On 27 October 2020, the Respondent filed a motion to strike the Applicant’s rejoinder.
5. On 30 October 2020, the Applicant filed a response to the Respondent’s motion.
6. On 10 January 2022, the instant case was assigned to the undersigned Judge.

Consideration

The Respondent’s motion on the Applicant’s rejoinder

7. The Respondent objects to the Applicant’s rejoinder due to the fact that the Applicant did not request leave to submit it and neither did the Tribunal grant such leave prior to the submission. In addition, the Respondent also objects to the length and content of the rejoinder, and the lack of explanation as to why said new annexes were not included in the initial application.
8. Pursuant to arts. 18.1 and 19 of the Tribunal’s Rules of Procedure, the Tribunal is free to admit any evidence it deems necessary, and to issue any order or give any direction that appears to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.

9. Having considered the content of the rejoinder and its annexes, the Tribunal finds no reason to strike it from the record as they are relevant and directly related to the facts narrated in the application and/or the reply.

10. Notwithstanding, considering the length of the rejoinder and its annexes and the principle of equality of arms, the Tribunal will give the Respondent the opportunity to make comments on the rejoinder if he so wishes.

11. However, the parties are hereby advised that the Tribunal is ready to move forward with adjudication and no new spontaneous submissions on the merits will be accepted beyond this point unless specifically authorized by it.

Whether an oral hearing is in order

12. Arts. 16.1 and 16.2 of the Tribunal's Rules of Procedure provide that "the Judge hearing a case may hold oral hearings" and that "a hearing should normally be held following an appeal against an administrative decision imposing a disciplinary measure". Nevertheless, the discretion to hold an oral hearing vests in the Judge (see *He* 2016-UNAT-686 and *Nadeau* 2017-UNAT-733).

13. Concurrently, art. 9.1 of the UNDT Statute confers upon it a discretion to order the production of documents or other evidence as it deems necessary, while art. 9.2 provides that the UNDT shall decide whether the Applicant or any other person is required at oral proceedings.

14. After a thorough reading of the case record, the Tribunal instructs the parties to submit their viewpoints as to whether an oral hearing is in order and, if so, to identify all the relevant facts and material issues that may require a fact-finding oral hearing.

Conclusion

15. In view of the foregoing, it is ORDERED THAT:

- a. The Respondent may submit comments on the Applicant's rejoinder, **by Thursday, 10 March 2022**; and
- b. **By Thursday, 10 March 2022**, the parties shall file submissions on the necessity of an oral hearing identifying the facts and material issues that may require a fact-finding hearing by this Tribunal.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 2nd day of March 2022

Entered in the Register on this 2nd day of March 2022

(Signed)

René M. Vargas M., Registrar, Geneva