



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

LAPPER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Jérôme Blanchard, LPAS, UNOG

Introduction

1. By application filed on 22 December 2021, the Applicant, a staff member of the Office of the High Commissioner for Human Rights, contests the “[r]evocation of single parent allowance and retroactive recovery thereof”.
2. On 24 January 2022, the Respondent filed his reply, submitting that:
 - a. The Applicant’s challenge to the legality of the requirements established by ST/AI/2018/6 (Dependency status and dependency benefits) is not receivable as he is not contesting an administrative decision pursuant to art. 2 of the Tribunal’s Statute; and
 - b. The decision to discontinue the payment of the single parent allowance and to recover the amount unduly received by the Applicant is lawful and proper. In this regard, he argues that the Applicant does not indicate that the Administration incorrectly applied ST/AI/2018/6 to his case, but rather argues that the rule is unlawful.

Consideration

3. Having reviewed the parties’ submissions, the Tribunal finds that this matter can be determined on the papers.
4. Moreover, the Tribunal notes that in cases where the implementation of the regulatory decision involves the Administration’s exercise of discretion, including the interpretation of an ambiguous regulatory decision, compliance with procedures, or the application of criteria, such exercise of discretion is subject to judicial review (see *Lloret Alcañiz et al.* 2018-UNAT-840 para. 59). In *Lloret Alcañiz et al.* (see para. 65), the majority of the Appeals Tribunal’s Judges further found that:

[T]he Secretary-General had little or no choice in the implementation of the General Assembly resolutions. The power he exercised was a purely mechanical power, more in the nature of a duty [...] purely mechanical powers are still accompanied by implied duties to act according to the minimum standards of

lawfulness and good administration: purely mechanical powers are hence reviewable on grounds of legality.

5. It follows that the Secretary-General's discretion to implement the resolutions of the General Assembly is not unbounded.

6. The Tribunal thus finds it appropriate and in the interest of justice to direct the Respondent to file further submissions on the legality of the eligibility requirements for single parent allowance established by ST/AI/2018/6. More specifically, he is directed to respond to the Applicant's claim that establishing a different single parent allowance eligibility threshold for staff members who do not reside with the child in ST/AI/2018/6 "exceeds the discretion granted to the Secretary-General in implementing the reforms decided by the General Assembly in resolution 70/244 of 23 December 2015" (see para. 22 of the application).

7. In accordance with the principle of equality of arms, the Tribunal will give the Applicant an equal opportunity to respond to the Respondent's submission.

8. Pursuant to art. 19 of the Tribunal's Rules of Procedure,

IT IS ORDERED THAT:

9. By **Friday, 1 April 2022**, the Respondent file a submission in accordance with the Tribunal's directions in para. 6 above.

10. By **Monday, 11 April 2022**, the Applicant may file his response to the Respondent's further submission.

(Signed)

Judge Teresa Bravo

Dated this 22nd day of March 2022

Entered in the Register on this 22nd day of March 2022

(Signed)

René M. Vargas M., Registrar, Geneva