



Before: Judge Margaret Tibulya

Registry: Geneva

Registrar: René M. Vargas M.

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

George Irving

Counsel for Respondent:

Miryoungh An, AAS/ALD/OHR, UN Secretariat

Introduction

1. By application filed on 26 June 2019, the Applicant, a former staff member with the United Nations Secretariat, contests “the decision to impose the disciplinary measure of separation from service with compensation in lieu of notice, and with termination indemnity in accordance with Staff Rule 10.2(a)(viii)”.
2. On 3 February 2021, the Tribunal issued its judgment *Applicant* UNDT/2021/007 dismissing the application referred to in para. 1 above. The Applicant subsequently appealed this Judgment with the United Nations Appeals Tribunal (“Appeals Tribunal”).
3. By Judgment *Appellant* 2022-UNAT-1210, dated 18 March 2022, the Appeals Tribunal upheld the appeal and remanded the matter to this Tribunal for the application to be re-heard and determined by a different judge.
4. On 23 May 2022, the remanded case, which had been registered under Case No. UNDT/NY/2019/47/R1, was transferred from the New York Registry to the Geneva Registry and was registered under Case No. UNDT/GVA/2022/016/T. The latter case was assigned to the undersigned Judge on 25 May 2023.

Consideration

5. In *Appellant* (para. 60), the Appeals Tribunal held that:

The UNDT should at the very least hear the evidence of the complainants, any eyewitnesses to the incidents, the persons to whom the first report was made, and the three witnesses identified by the Appellant. Should some of the witnesses no longer be available, the UNDT must determine on the available evidence whether the allegations of sexual harassment have been proven by the Secretary-General on evidence that attains the standard of highly probable.

6. Having reviewed the case record and considered the Appeals Tribunal’s instructions, the Tribunal finds it appropriate and in the interest of justice to invite the parties to a Case Management Discussion (“CMD”) pursuant to art. 19 of its Rules of Procedure.

7. The purpose of the CMD is to:
 - a. Identify the witnesses to be called and the documents to be presented;
 - b. Set the dates for a hearing on the merits of the case; and
 - c. Generally, deal with any other matter relating to the consideration and determination of the Applicant's case.

8. Under art. 9.3 of the Tribunal's Statute and art. 16.6 of its Rules of Procedure, the oral proceedings shall be held in public unless the Tribunal decides, at its own initiative or at the request of either party, that "exceptional circumstances require that the oral proceedings be closed". The Tribunal considers that oral proceedings involving sexual harassment allegations, such as in the present case, constitute exceptional circumstances. Therefore, the Tribunal finds it necessary to have closed oral proceedings and hold the CMD *in camera*.

9. Given the sensitive nature of the sexual harassment allegations at issue, the Tribunal finds it also necessary to order that the Applicant's name be anonymized for publication purposes of the Tribunal's Orders.

Conclusion

10. In view of the foregoing, it is ORDERED THAT:
 - a. The parties attend a CMD on **Tuesday, 13 June 2023, at 2.30 p.m. (Geneva Time)**, which will be conducted virtually through Microsoft Teams; and
 - b. The Applicant's name be anonymized in the Tribunal's Orders.

(Signed)

Judge Margaret Tibulya

Dated this 8th day of June 2023

Entered in the Register on this 8th day of June 2023

(Signed)

René M. Vargas M., Registrar, Geneva