



Before: Duty Judge

Registry: Geneva

Registrar: René M. Vargas M.

DE DOBBELAERE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Alister Cumming, UNICEF

Introduction

1. On 12 October 2023, the Applicant, a staff member of the United Nations Children’s Fund (“UNICEF”), filed an application contesting the decision to close an investigation into abuse of authority, harassment, and sexual harassment allegedly committed by her former supervisor, without taking any disciplinary, administrative, and/or managerial action.
2. On 11 November 2023, the Applicant filed a motion for anonymity.
3. On 11 December 2023, the Respondent filed his reply to the application and the Applicant’s motion for anonymity.
4. On 22 December 2023, the Applicant filed a motion to file a rejoinder.
5. On 10 January 2024, the Applicant filed a motion for disclosure of evidence.
6. On 16 January 2024, the Respondent filed a response to the Applicant’s motion for disclosure of evidence.
7. On 18 January 2024, the Applicant filed a motion for leave to comment on the Respondent’s response to her motion for disclosure of evidence.

Consideration

8. The Tribunal will proceed to address the parties’ pending motions/submissions.

Motion for anonymity

9. In her motion, the Applicant argues that “a publicly and permanently available judgment that reveals sensitive information regarding the misconduct, including the sexual harassment, that she suffered could cause further harm to her emotional and mental health, negatively affect her personal situation, and raise the issue of her right to privacy”. She further claims that a public judgment “referring to the fact that [she] reported the misconduct, including sexual harassment, of a

supervisor and Senior Advisor would expose her to retaliation and could negatively affect her professional situation and career”.

10. In response, the Respondent alleges that the Applicant has not identified any exceptional circumstances that would justify an exception to the general principle that litigants are named. He states that, unlike the Applicant, the individuals who have been accused of wrongdoing do not have the right to make submissions to the Tribunal and defend themselves. He thus requests the Tribunal to refrain from identifying the Applicant’s supervisor and the investigator named in the application.

11. The Respondent requests that the supervisor be identified as S01 “in all publicly issued orders or judgments, and that any such pronouncement do not mention his role”. He also requests that the Tribunal “does not refer to the investigator by name in all publicly issued orders or judgments, and that any such pronouncement do not mention his role”.

12. Art. 11.6 of the Tribunal’s Statute states that “[t]he judgements of the Dispute Tribunal shall be published, while protecting personal data, and made generally available by the Registry of the Tribunal.” In this respect, the United Nations Appeals Tribunal held in *AAE 2023-UNAT-1332*, at para. 155, that:

there continues to be concerns raised regarding the privacy of individuals contained in judgments which are increasingly published and accessible online. In our digital age, such publication ensures that individuals’ personal details are available online, worldwide, and in perpetuity. There are increasing calls for the privacy of individuals and parties to be protected in judgments.

13. It is well-settled case law that “the names of litigants are routinely included in judgments of the internal justice system of the United Nations in the interests of transparency and accountability, and personal embarrassment and discomfort are not sufficient grounds to grant confidentiality” (see *Buff 2016-UNAT-639*, para. 21).

14. The Tribunal also recalls that in its resolutions 76/242 and 77/260, adopted on 24 December 2021 and 30 December 2022 respectively, the General Assembly reaffirmed the principle of transparency to ensure a strong culture of accountability throughout the Secretariat.

15. It follows that the internal justice system is governed by the principles of transparency and accountability. A deviation from these principles by means of anonymization requires that an applicant meets a high threshold for such a request to be granted.

16. The Tribunal finds that the Applicant's arguments concerning her emotional and mental health and her fear of retaliation without any relevant evidence are not sufficient reasons for it to deviate from the principles of transparency and accountability. It thus follows that the Applicant's motion should be denied.

17. Concerning the Respondent's request, the Tribunal recalls that it generally uses functional titles rather than names in its decisions. Given the principles of transparency and accountability, it does not consider it appropriate to identify the supervisor as S01 in all publicly issued orders or judgments.

Filing of a rejoinder

18. Having perused the case file, the Tribunal considers it appropriate and in the interest of justice to direct the Applicant to file a rejoinder to the reply. Therefore, the Applicant's motion in this respect is granted.

Applicant's motion for disclosure of evidence

19. In her motion, the Applicant seeks disclosure of various documents referred to in Annex R/1 to the Respondent's reply. In particular, she requests disclosure of:

- a. Three notes for the record dated 19 November 2021, 24 March 2022 and 27 April 2022;
- b. "[A]ll other communications between [her former supervisor] and [the Human Resources] focal point that concern the Applicant's performance or anything related to it";

- c. An “interview transcript” of 31 January 2023;
- d. A “witness interview transcript” of 31 January 2023;
- e. A “witness interview transcript” of 7 February 2023; and
- f. The response of the Applicant’s former supervisor in the context of the Applicant’s request for management evaluation.

20. In his response to the Applicant’s motion, the Respondent alleges, *inter alia*, that the Applicant has failed to identify how any of the items or documents sought are relevant to the factual issues in this case.

21. Having carefully considered the filings on record, the Tribunal finds that the Applicant should be afforded the opportunity to respond to the Respondent’s contentions in his 16 January 2024 response to the Applicant’s motion on disclosure of evidence. Consequently, the Applicant’s motion to file comments on the Respondent’s 16 January 2024 filing is granted. The Tribunal will decide in due course on the Applicant’s motion for disclosure of evidence.

Amicable settlement

22. Considering the specific circumstances of the present case and noting that the General Assembly has consistently encouraged alternative dispute resolution, the Tribunal finds it appropriate to encourage the parties to explore the possibility of having the dispute between them resolved without recourse to further litigation.

Conclusion

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

- a. The Applicant’s motion for anonymity is rejected;
- b. By **Thursday, 29 February 2024**, the Applicant shall file a rejoinder and her comments on the Respondent’s 16 January 2024 response to her motion for disclosure of evidence; and

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c. The parties shall explore resolving the dispute amicably and revert to the Tribunal in this respect by **Thursday, 7 March 2024**.

(Signed)

Judge Sun Xiangzhuang (Duty Judge)

Dated this 30th day of January 2024

Entered in the Register on this 30th day of January 2024

(Signed)

René M. Vargas M., Registrar, Geneva