



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2020/056/R1

Order No.: 159 (NBI/2022)

Date: 10 November 2022

Original: English

Before: Judge Eleanor Donaldson-Honeywell

Registry: Nairobi

Registrar: Abena Kwakye-Berko

NIGAM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER CASE MANAGEMENT

Counsel for Applicant:

Patolla Niroop
Chandan Kumar

Counsel for Respondent:

Angela Arroyo, UNDP

Introduction

1. The Applicant was a staff member of the United Nations Development Programme (“UNDP”). He served at the D-1 level on a fixed-term appointment and was the Resident Coordinator and Resident Representative in Riyadh, Saudi Arabia, at the time of the application.

Procedural History

2. On 23 July 2020, the Applicant filed an application with the United Nations Dispute Tribunal sitting in Nairobi to challenge the Respondent’s decision to not disclose the report of the investigation into his conduct, in which he was exonerated, but which he contends was conducted on the basis of malicious complaints by two staff members. The Applicant’s case is that the investigative process resulted in him being harassed and subjected to undue stress and pressure. Further, the Applicant contends, his own complaints into the conduct of the two staff members should have been subjected to the same investigative rigours that were meted out to him.

3. On 29 July 2021, UNDT/2021/092 was issued dismissing the application.

4. The Applicant appealed.

5. On 24 August 2022, the United Nations Appeals Tribunal (“UNAT”) rendered its judgment 2022-UNAT-1269.

6. The Appeals Tribunal held, *inter alia*,

The case must be, and is, remanded to the UNDT for decision on its merits based on and limited to those matters referred to in Mr. Nigam’s second management evaluation request, that is by the contents of his letter of 18 March 2020 and which was responded to by letter dated 29 April 2020.

Finally, and as we note the UNDT did also, we recommend the Appellant to take legal advice and/or have legal representation: the complexities, pitfalls and nuances of this matter for an unrepresented litigant are well illustrated by this Judgment.

7. So guided by the Appeals Tribunal, the Applicant instructed counsel for these proceedings.

8. On 20 October 2022, the Tribunal held a case management discussion (“CMD”) with the parties. The Tribunal directed the Respondent to disclose the investigation report and closure memo related to the investigation into allegations against Mr. Nigam. The Tribunal ordered that the report be disclosed, under seal, without redaction by 24 October 2022.

9. Parties were also requested to reconsider their respective positions towards an *inter partes* settlement of the dispute; and advised that this could be engaged in with or without the involvement of the Office of the Mediation and Ombudsman Services (“OMS”).

10. Following this disclosure, the Tribunal requested that the Respondent also disclose the “Assessment Report regarding allegations of harassment of UNDP staff;” which document formed the basis of the Respondent’s decision to not investigate the Applicant’s allegations of harassment.

11. Another CMD was held with the parties on 2 November 2022.

The Discussion

12. Both parties indicated their willingness to engagement is *inter partes* settlement discussions and advise the Tribunal on the status by 1 December 2022.

Conclusion

13. The timeline for the parties’ response to the Tribunal has been revised from what was agreed at the CMD to better align with the deployment of the undersigned Judge.

14. The parties are commended for this approach and directed to advise the Tribunal as to the status of their discussions by **25 November 2022**.

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(Signed)

Judge Eleanor Donaldson-Honeywell

Dated this 10th day of November 2022

Entered in the Register on this 10th day of November 2022

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi