



**Before:** Judge Sean Wallace

**Registry:** Nairobi

**Registrar:** Wanda L. Carter

LIKUKELA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON THE PARTIES' MOTIONS  
AND ON CASE MANAGEMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Albert Angeles, DAS/ALD/OHR, UN Secretariat  
Sergei Gorbylev, DAS/ALD/OHR, UN Secretariat

## **Introduction**

1. On 24 May 2024, the Applicant filed an application to contest the decision to impose on her the disciplinary measure of separation from service with compensation *in lieu* of notice, and without termination indemnity, in accordance with staff rule 10.2(a)(viii) (“the contested decision”).

2. In the sanction letter dated 20 May 2024, The Under-Secretary-General for Management Strategy, Policy and Compliance (“USG/DMSPC”) concluded that it had been established by clear and convincing evidence that:

a. From 14 December 2020, she refused to return and/or make arrangements for the return to the United Nations Federal Credit Union (“UNFCU”) of funds totaling USD487,216.20, despite UNFCU’s demand and her awareness that the funds were erroneously transferred to her account;

b. In March 2021, in her submissions to the Office of Internal Oversight Services (“OIOS”) in the context of an investigation into the legal dispute between her and UNFCU, she provided OIOS investigators with false documentation and/or misrepresented the nature of the document indicating that it was a final judgment filed with and/or issued by the High Court of Zambia to dispose of the dispute between her and UNFCU, when no such document or judgment had been filed with and/or issued by the High Court of Zambia in the case; and

c. From 13 July 2022, she failed to comply with the High Court of Zambia’s lawful order to return to UNFCU the amount of USD487,216.20, which UNFCU erroneously credited to her account, with interest at the rate of 2% per annum from 1 August 2013.

3. On 1 July 2024, the Tribunal issued Order No. 79 (NBI/2024) in which the Applicant was granted leave to file a rejoinder to the reply and the parties were directed to submit a list of witnesses they propose to call at the hearing of the case on the merits.

4. On 29 July 2024, the Applicant filed the rejoinder accompanied by several annexes and thereafter filed almost 700 pages of additional documents which she describes as “Comments on the Respondent’s Reply”.
5. On 31 July 2024, the Applicant filed an “Addendum to the rejoinder”.
6. On 14 August 2024, without seeking leave of the Tribunal, the Applicant filed a “Matrix of Evidence”.
7. The Applicant also filed her list of proposed witnesses on 14 August 2024.
8. On 14 August 2024, the Respondent filed a motion informing the Tribunal that he did not intend to call any witness and requested the Tribunal to adjudicate the case based on the case record.
9. On 3 October 2024, the Applicant filed a motion seeking leave to include the payment of her final entitlements totaling USD46,524.66 with interest, as an additional claim in her application, declare the payment of USD46,524.66 from her final entitlements to UNFCU illegal, and cite the persons involved in the payment of the USD46,524.66 to UNFCU in contempt.
10. The Respondent filed a response to the Applicant’s motion on 9 October 2024.
11. On 2 December 2024, the Applicant filed a motion requesting the Tribunal for an order for the immediate payment of certain new claims and repeated her request for an order for payment of final entitlements.
12. On 5 December 2024, the Applicant filed another motion requesting, *inter alia*, for an “impeachment motion” against the Respondent’s staff for committing fraud against her, for transnational racketeering and money laundering acts, including theft of her wages and alleged bribery, inducement and influence of Zambian judicial service staff members and a judicial officer in the manner they obtained a 13 July 2022 judgment against her from the High Court of Zambia. In this new motion, the Applicant merely reiterates the claims she has made in her earlier filings.

## Consideration

### *Focusing the Scope of the Case on the Contested Decision*

13. The Tribunal has examined the Applicant’s voluminous filings and considers that the Applicant is attempting to broaden the case beyond the contested decision and the conclusions contained in the sanction letter of 20 May 2024.<sup>1</sup>

14. The Appeals Tribunal has consistently held that “the Dispute Tribunal has the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review” (*Fasanella* 2017-UNAT-765, para. 20). The Appeals Tribunal further held that when defining the issues of a case, “the Dispute Tribunal may consider the application as a whole”. (See, *Fasanella op. cit.* para. 20; *Cardwell* 2018-UNAT-876, para. 23; *Barbulescu* UNDT/2024/046; and *Vanshelboim* UNDT/2024/072, para. 29). The Applicant’s filings make it necessary for the Tribunal to do so in this case.

15. To be absolutely clear, the contested decision in this case is the one cited by the Applicant in her application: “Sanction on Disciplinary Process By a memorandum dated 20 February 2024 (Allegations of Misconduct).” Application, para. V.1.

16. In addition, some of the additional claims that the Applicant wishes to add to this case are not receivable for a number of reasons.

17. First, the Applicant’s claims regarding alleged injuries incurred during the course of a medical examinations conducted at the United Nations Integrated Mission in Timor-Leste (“UNMIT”) on 3 August 2011, have already been litigated and are therefore barred in accordance with the doctrine of *res judicata* (See, *Likukela* UNDT/2016/180 and *Likukela* 2017-UNAT-737). The same cause of action cannot be adjudicated twice. For the stability of the judicial process, it is desirable that there is an end to litigation. Accordingly, “[t]he party who loses cannot re-litigate his or her case (*Nath, Khanna, Joshi, Batra* UNDT/2017/052, 060, 061, 077, para. 17, citing to *Shanks* 2010-UNAT-026 bis, para. 4; *Costa* 2010-

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<sup>1</sup> The Applicant has filed documents totaling over 2,256 pages.

UNAT-063, para. 4; *Beaudry* 2011-UNAT-129, paras. 16-17; *Masri* 2011-UNAT-163, para. 12; *Meron* 2012-UNAT-198, paras. 25-26; *Abbasi* 2013-UNAT-315, para. 14; *Ghahremani* 2013-UNAT-351, para. 10; *Gakumba* 2014-UNAT-492, para. 12; Onana 2015-UNAT-533, para. 43.).

18. Second, the Applicant's other claims are new decisions that must be subject to management evaluation in accordance with staff rule 11.2, namely:

- a. An education grant entitlement of USD3,982;
- b. Her final pay and entitlements which includes her May 2024 salary, 60 days of accumulated leave, USD2,000 for security services, three months Daily Subsistence Allowance ("DSA") for being sent on Administrative Leave With Pay ("ALWP");
- c. A claim for a payment of USD3,500 missing from her June 2024 payslip;
- d. A claim for payment of USD1,459.64 recovered from her 29 July 2024 salary;
- e. to include the payment of her final entitlements totaling USD46,524.66 with interest, as an additional claim in her application;
- f. to declare the payment of USD46,524.66 from her final entitlements to the United Nations Federal Credit Union ("UNFCU") illegal; and

19. The Applicant's claim requesting the Tribunal to cite the persons involved in the payment of the USD46,524.66 for UNFCU in contempt is not an appeal from an administrative decision and thus the introduction ("subject to management evaluation") is incorrect. However, the claim is also not receivable as "the persons involved in the payment of the USD 46,524.66" were not violating any Tribunal order, which is a necessary element of contempt.

20. In the claim filed by the Applicant on 2 December 2024, she requests the Tribunal for an order for immediate payment of:

- a. Her wages in the sum of USD45,065.02; and her education grant in the sum of USD1,459.64.
- b. Reimbursement for payment for the Minimum Operational Residential Security Standards (“MORSS”) Security Services, from March to June 2024 in the sum of USD2,000 and she states that USD500 was included on each monthly rental payment.
- c. Per Diem of USD2500 per month from 1 July 2024, pending final payment.
- d. Immediate payment of the requested per diem as a result of being involuntarily sent out when she was placed on ALWP from 18 January to 18 March 2024.
- e. Payment of the requested USD1million for compensation of the Respondent’s staff member’s involvement in raiding her house on 23 February 2024, for looting her household goods and occupying her house located in Lusaka, Zambia rendering her homeless.

21. These latest claims are not properly before the Tribunal. As argued by the Respondent, the claims are not connected to the decision under review and must be subjected to the proper process in the internal justice system, including management evaluation where required. The claims are dismissed as irreceivable.

22. The Applicant has also requested the Tribunal to allow her to appeal in this case a management evaluation decision she received on 8 July 2024. The management evaluation determined that the decision to extend the Applicant’s ALWP from 16 April 2024 to her separation on 20 May 2024 was lawful. The Management Advice and Evaluation Section (“MAES”) also determined that she was not entitled to be paid a per diem while on ALWP. MAES informed the Applicant that her claims regarding the payment of security expenses and the certification of her sick leave were under review.

23. The management evaluation determinations on ALWP and on the payment of a per diem do not address any issues relevant to the contested decision and to the

disciplinary sanction imposed on her, and thus they will not be considered in the adjudication of this case. A separate application for judicial review must be filed.

24. The Tribunal has also decided not to entertain the following claims and requests by the Applicant which are not related to and do not address the legal issues in this case:

a. The Applicant's request for the Tribunal to review whether the OIOS Investigation Division ("ID/OIOS") influenced the South African acting Executive Director at the African Commission for Human and People's Rights to stop deliberating on her complaint in Communication 731/19 in the matter of *Dorah Likukela v. The Republic of Zambia*. This is beyond the jurisdiction of the UNDT per art. 2 of UNDT Statute.

b. The request for the Tribunal to "deem statements from some certain Nigerian staff members as untruthful" and to order the Respondent to seek help from the African Union and from the Economic Community of West African States to deal with their citizens. This is also beyond the jurisdiction of UNDT per art. 2 of UNDT Statute.

c. All claims related to the alleged "raid, looting, vandalism and illegal occupation" of the Applicant's house. These actions were undertaken by people not employed by the United Nations and are again beyond UNDT's jurisdiction.

d. The request that the Tribunal order the Respondent to seek a legal opinion from the International Criminal Court ("ICC") regarding a "Final Default Judgment" in which the Zambian Court allegedly awarded her USD110 million against UNFCU. The UNDT does not have power under its Statute to order the Respondent to seek a legal opinion of the ICC.

e. All issues related to the alleged "theft" of her first United Nations, International Criminal Tribunal for Rwanda job offer. This claim is time-barred as the Applicant claims the events occurred in or around the year 2000. They also have no connection to the contested decision.

f. All issues related to her deceased child.

*The Applicant's proposed witnesses*

25. The Applicant is proposing to call almost 60 witnesses for the hearing of this case. The list includes, among others: the African Union Chairperson; several Zambian Judges; the Zambian Commissioner of Lands; the New York District Attorney General; the Director of the Federal Bureau of Investigations; the Zambian Commercial Court Registry staff; and the Bank of America Governor.

26. The Tribunal, having reviewed the Applicant's proposed list of witnesses and her justifications for calling them, notes that nearly all of the proposed witnesses would testify about the matters the Tribunal has dismissed as discussed above. Only two of the proposed witnesses (#5 and #6) purportedly have testimony relating to the contested decision, in that the Applicant says both will testify that "the money UNFCU was claiming to have paid me in error was put in my account by three Zambian UN Staff members 'as part of a fraud scheme'"<sup>2</sup> Even that is irrelevant in that, whether the money was paid to the Applicant by error or by fraud, it was not lawfully the Applicant's money. The contested discipline was imposed based on a finding, *inter alia*, that the Applicant refused to return the money. None of these witnesses have any relevant information about the contested decision, and thus they will not be allowed to testify.

27. The Tribunal, however, has determined that the Applicant may testify on her own behalf if she so chooses. The Respondent has indicated that he does not intend to call any witnesses at this time. Accordingly, the hearing will consist only of testimony from the Applicant, limited to the contested decision and nothing else.

28. In view of this, the Respondent's motion to have the case adjudicated based on the case record is refused. The case record contains a substantial amount of material not relevant to the contested issue. The Tribunal will likely benefit more

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<sup>2</sup> In addition, the Applicant also claims that: #5 confessed to killing the Applicant's daughter and was likely involved in a conspiracy to assassinate her son; and #6 was involved in a conspiracy against the Applicant as well.



from hearing the Applicant in open court and guiding the oral evidence adduced in a more concise and judicious manner.

*Applicant's Motion for Remedial Measures*

29. These claims are beyond the scope of this case, as examined above and, to the extent that they relate to the contested decision, the Tribunal does not find any basis for adjudicating these claims for financial relief before the substantive challenge to the contested decision has been decided. The Applicant's motion requesting the Tribunal to entertain the claims set out in this motion (see para. 19 above) is denied.

*Additional matters*

30. Finally, the Tribunal notes that it "is in the best position to decide what is appropriate for the fair and expeditious disposal of a case and to do justice to the parties." *Bertucci* 2010-UNAT-062, para. 23; *Khambatta* 2012-UNAT-252, para. 15; *Perez-Soto* 2013-UNAT-329, para. 20; *Gehr* 2013-UNAT-294, para. 20; *Leboeuf, et al.* 2013-UNAT-354, para. 8; *Bastet* 2014-UNAT-423, para. 14; *Staedtler* 2015-UNAT-560, para. 30; *Namrouti* 2015-UNAT-593, para. 33; *James* 2016-UNAT-600; para. 19; *Mohanna* 2016-UNAT-687, para. 20; *Abu Malluh, et al.* 2016-UNAT-690, para. 35; *Nadeau* 2017-UNAT-733, para. 32.

31. Given the Applicant's demonstrated practice of filing irrelevant material, the Tribunal hereby directs that the Applicant may not file any additional documentation without first being directed or authorized to do so by the Tribunal.

**Conclusion**

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

- a. This case is limited to the Applicant's claim challenging the disciplinary measure imposed on her by decision dated 20 February 2024;
- b. The Applicant's request to appeal in this case the management evaluation decision she received on 8 July 2024 is denied;
- c. The Applicant's motions requesting the Tribunal to entertain more claims as listed above are denied;

d. The Respondent's motion to have the case adjudicated on the basis of the case record is denied;

e. By **Wednesday, 11 December 2024**, the parties shall confirm their availability for a hearing on **21 January 2025**; and

f. The Applicant shall be the sole witness permitted to testify at the hearing, and her testimony shall be strictly restricted to the events surrounding the alleged misconduct, the disciplinary process and the sanction imposed. The Respondent will thereafter be permitted to cross-examine her.

*(Signed)*

Judge Sean Wallace

Dated this 10<sup>th</sup> day of December 2024

Entered in the Register on this 10<sup>th</sup> day of December 2024

*(Signed)*

Wanda L. Carter, Registrar, Nairobi