



Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

ELIMU

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON EXTENSION OF TIME FOR
FILING JOINT SUBMISSION AND
DEFERRED CASE MANAGEMENT
DISCUSSION**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Miryoung An, ALS/OHRM, UN Secretariat
Cristiano Papile, ALS/OHRM, UN Secretariat

Introduction

1. The Applicant, an Associate Human Resources Officer at the P-2/12 level, in the Field Personnel Division, Department of Field Support in New York, filed an application on 14 October 2015, identifying the contested decision as the “[i]mposition of disciplinary measure of demotion for a period of two years, with no eligibility for promotion, in accordance with [staff rule] 10.2(a)(vii), as per [Assistant Secretary-General for Human Resources] memo of 24 July 2015”. The Applicant contests

the procedural approach to the investigations carried out against me for my alleged integrity breach during the processing of [job opening]# 425074 (Political Affairs Officer – P-3), which was based on a fact-finding panel report [that] issued formal allegations of misconduct against me for allegedly administering the written assessment for the [P-3] position ... which I myself applied, and was candidate, for.

2. The Applicant states, *inter alia*, that he was singled out for “selective justice” in that other staff members were not investigated for the same or similar offences. The Applicant submits that there were instances in which other staff members engaged in similar conduct, with full knowledge of their superiors, and suffered no negative consequences.

3. The application was transmitted to the Respondent on 14 October 2015, pursuant to art. 10 of the Tribunal’s Rules of Procedure.

4. The Respondent filed his reply on 13 November 2015. The Respondent submits, *inter alia*, that the facts on which the disciplinary measure was based had been established by clear and convincing evidence and that the Applicant’s claims are without merit. The Respondent states that there is no evidence in support of the Applicant’s claim that there was a practice whereby other staff members who administered tests also took them as candidates with the awareness and condonation

of their supervisors. The Respondent submits that the facts legally amount to misconduct, that the Applicant's procedural rights were fully respected, and that the imposed disciplinary measure was proportionate to the misconduct.

5. On 9 May 2016, the present case was assigned to the undersigned Judge.

6. By Order No. 110 (NY/2016), dated 11 May 2016, the Tribunal directed the parties to file a jointly-signed submission by 5:00 p.m., Tuesday, 7 June 2016, regarding, *inter alia*, the factual and legal issues in contention, a list of witnesses to be called together with brief statements of their evidence, tentative dates for a hearing and other matters, with a view to holding a case management discussion on Thursday, 9 June 2016 at 11:00 a.m., in order to prepare for the hearing of this matter.

7. By email to the Registry dated 24 May 2016, the Applicant stated that he would be represented by private counsel in this case.

8. On 3 June 2016, the parties filed a joint submission requesting an extension of time until 14 June 2016 to file the jointly-signed submission, also requesting that the case management discussion be rescheduled to another date in the circumstances.

9. Following the joint request, as there was no Authorization Form on file from Applicant's designated Legal Representative, the Registry endeavored to contact said Counsel who confirmed that indeed he was not representing the Applicant. The Applicant subsequently confirmed that he was, as of now, unrepresented.

Consideration

10. This is one of numerous applications received by the New York Registry of late for extensions of time, and postponement of case management discussions and hearing dates. Parties should be aware that such requests/applications, particularly at

the eleventh hour, disrupt the Tribunal's schedule and delay the disposal of cases as they have a knock-on effect.

11. However, as the Applicant is self-represented, the Tribunal considers it appropriate to order the parties to file the jointly-signed submission pursuant to Order No. 110 (NY/2016), and to attend a case management discussion in preparation for a hearing on the merits, on the deferred dates stipulated herein. The parties are warned that there will be no further postponements allowed.

12. The parties are reminded that they are free to attempt informal resolution of the dispute through the United Nations Ombudsman and Mediation Services or via *inter partes* discussions. Should the parties decide to resume their informal discussions, they shall promptly inform the Tribunal thereof and seek suspension of the proceedings.

13. Pursuant to art. 19 of the Dispute Tribunal's Rules of Procedure, the Tribunal considers it appropriate and in the interests of a fair disposal of the case to make the following orders.

IT IS ORDERED THAT:

14. By **5:00 p.m., Tuesday, 14 June 2016**, the parties shall file the jointly-signed submission stipulated under Order No. 110 (NY/2016).

15. At **11:00 a.m., Monday, 27 June 2016**, the parties shall attend a case management discussion in preparation for a hearing on the merits.

(Signed)

Judge Ebrahim-Carstens

Dated this 7th day of June 2016