



Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Hafida Lahiouel

AUDA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Alan Gutman, ALS/OHRM, UN Secretariat

Introduction

1. This order relates to two separate but related applications filed by the Applicant, a former Principal Officer at the D-1 level in the Department of General Assembly and Conference Management (“DGACM”). The applications relate to a complaint submitted by the Applicant on 19 April 2012 to Mr. Shaaban M. Shaaban, the then Under-Secretary-General, DGACM (“USG/DGACM”), alleging that Mr. Franz Baumann, the then Assistant Secretary-General, DGACM, had engaged in prohibited conduct under ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority). The two applications can be summarized as follows:

a. On 8 June 2015, the Applicant filed an application contesting the decision of an initial fact-finding panel to “delay, withhold, and not submit its report on the investigation and the records of the investigation”. This case was registered under Case No. UNDT/NY/2015/035 (“Case No. 2015/035”);

b. On 20 November 2015, the Applicant filed an application contesting the 8 September 2015 decision of Mr. Tegegnework Gettu, USG/DGACM, at the time, based on the report of a second fact-finding panel, to close his complaint under ST/SGB/2008/5 without taking any further action. This case was registered under Case No. UNDT/NY/2015/062 (“Case No. 2015/062”).

2. On 8 July 2015, the Respondent filed a reply to the application in Case No. 2015/035, submitting that it is not receivable *ratione materiae* or, in the alternative, moot.

3. On 21 August 2015, the Applicant filed a response to the Respondent’s reply in Case No. 2015/035, addressing the receivability points raised by the Respondent.

4. On 21 December 2015, the Respondent filed a reply to the application in Case No. 2015/062.

5. Case No. 2015/035 and Case No. 2015/062 were assigned to the undersigned Judge on 1 July 2016.

Consideration

6. The General Assembly has repeatedly reaffirmed that “the informal resolution of conflict is a crucial element of the system of administration of justice” (see, for example, para. 15 of General Assembly resolution 70/112 (Administration of justice at the United Nations), adopted on 14 December 2015). Having considered the issues arising in Case No. 2015/035 and Case No. 2015/062, the Tribunal is of the view that these cases may be amenable to informal and amicable resolution. The Tribunal therefore considers it appropriate to provide the parties with an opportunity to resolve these cases informally.

7. The parties are free to attempt informal resolution of the disputes arising in these cases through the United Nations Ombudsman and Mediation Services or via *inter partes* discussions. Should the parties decide to attempt informal resolution of the matter, they shall promptly inform the Tribunal thereof and seek suspension of the proceedings.

8. In the event that no informal resolution is possible, given the common factual background to Case No. 2015/035 and Case No. 2015/062, the Tribunal considers that it would be in the interests of justice and judicial economy to consolidate these cases through an order for combined proceedings. The Tribunal further considers that an oral hearing should be held in these cases.

9. 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:

10. The Applicant and Counsel for the Respondent are to confer with a view to resolving the matters in Case No. 2015/035 and Case No. 2015/062 informally. **By 5:00 p.m. on Wednesday, 20 July 2016**, the parties are to file a jointly-signed statement informing the Tribunal whether they agree to attempt informal resolution of the matters arising in Case No. 2015/035 and Case No. 2015/062. If so, they may request a suspension of the proceedings.

11. If the parties do not agree to attempt informal resolution, by **5:00 p.m. on Thursday, 28 July 2016**, the parties are to file a jointly-signed statement responding under separate headings to each of the following issues. Where there is disagreement over an issue, fact or statement, the statement shall identify the parties' respective positions:

- a. The Respondent is to provide the Tribunal a copy of the report of the second fact-finding panel submitted on 26 June 2015;
- b. The Respondent is to provide a full explanation, including all relevant particulars, as to why it took more than three years from the date of the submission of the Applicant's complaint on 19 April 2012 until the completion of the report of the second fact-finding panel on 26 June 2015;
- c. The parties' views on whether Case No. 2015/035 and Case No. 2015/062 should be consolidated through an order for combined proceedings;

- d. A joint proposal as to the date(s) for an oral hearing, ensuring availability of their proposed witnesses;
 - e. Lists of witnesses that the Applicant and the Respondent propose to call, confirming whether the witnesses will appear in person and providing their contact information to the Tribunal. The parties shall also include a proposed order of appearance for their witnesses;
 - f. Brief statements of the evidence each party intends to elicit from their proposed, respective witnesses;
 - g. An agreed bundle of documents which the parties intend to rely upon at the hearing. The bundle shall contain an index of the documents contained therein, with each page of the bundle clearly paginated for ease of reference.
12. Following receipt of the jointly-signed statement(s) referred to above, the Tribunal may issue further orders and/or hold a case management discussion.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 12th day of July 2016