



Before: Judge Joelle Adda
Registry: New York
Registrar: Nerea Suero Fontecha

NADEAU

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Peter A. Gallo, Esq.

Counsel for Respondent:

Alan Gutman, ALD/OHR, UN Secretariat

Introduction

1. The present case was initially assigned to Judge Ebrahim-Carstens. After undertaking various case management steps, by Judgment No. UNDT/2018/052 on receivability dated 25 April 2018, Judge Ebrahim-Carstens held that (see para. 49),

... Defining the appealable contested administrative decision under art. 2.1(a) of the Dispute Tribunal's Statute as the Administration's failure/omission to consider the Applicant's complaint dated 18 February 2015 under ST/SGB/2008/5 and to inform him of the result, the Tribunal finds that the application is receivable.

2. In response to Judge Ebrahim-Carstens' orders in Judgment No. UNDT/2018/052 and Order No. 147 (NY/2019) dated 19 July 2018, the Respondent informed on 6 August 2018 that, "The Parties have not successfully engaged in informal dispute resolution discussions".

3. In response to the Applicant's motion for recusal preservation of evidence and ancillary protective measures dated 9 August 2018, by Order No. 185 (NY/2019) dated 21 September 2018, Judge Ebrahim-Carstens found, *inter alia*, that,

... Furthermore, for the Tribunal to order production—and therefore also preservation—of evidence, the request for production/preservation cannot be "cast in the most general terms" without identifying "the specific documents [the requesting party] is seeking or without pinpointing events which such documents supposedly relate to"—if the requesting party fails to provide such necessary degree of specificity, s/he would be deemed to be on an "impermissible fishing expedition" (see the Appeals Tribunal Rangel Order No. 256 (2016) (in Case Nos. 2014-611, 2014-674 and 2015-689)). By merely referring to the email correspondence, that may pertain to the Applicant in any respects, of 11 individuals, and the possible responses from [the former Office of Human Resources Management], his Counsel has not provided such specificity that would allow the Tribunal to make the necessary order for preservation of evidence or ancillary protective measures in the present case.

4. Judge Ebrahim-Carstens then ordered that (emphasis omitted),

... The Applicant's "motion for recusal, preservation of evidence and ancillary protective measures" of 9 August 2018 is denied.

... By 4:00 p.m., on Wednesday, 3 October 2018, the Respondent is to file a submission, and if possible documentation, on the status of the Applicant's transfer to IED/OIOS, including reporting lines, terms of reference and any other relevant information.

... In the interim, no further filings are to be made by either party without leave of the Tribunal.

5. On 3 October 2018, the Respondent filed a submission in response to Order No. 185 (NY/2019).

6. On 30 June 2019, Judge Ebrahim-Carstens' tenure with the Dispute Tribunal ended. The following day (on 1 July 2019), the case was reassigned to the undersigned Judge.

Consideration

7. The undersigned Judge adopts all orders previously made in the present case by Judge Ebrahim-Carstens. In light thereof, for the fair and expeditious disposal of the case and to do justice to the parties in accordance with art. 19 of the Rules of Procedure of the Dispute Tribunal,

IT IS ORDERED THAT:

8. By **4:00 p.m. on Tuesday, 3 September 2019**, the parties are to file a jointly signed statement providing, under separate headings, the following information:

a. A consolidated list of the agreed facts. In chronological order, this list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning;

b. A consolidated list of the disputed facts. In chronological order, the list is to make specific reference to each individual event in one paragraph in

which the relevant date is stated at the beginning. If any documentary and/or oral evidence is relied upon to support a disputed fact, clear reference is to be made to the appropriate annex in the application or reply, as applicable. At the end of the disputed paragraph in square brackets, the party contesting the disputed fact shall set out the reason(s);

c. A list of any additional written evidence, which a party requests to produce, or request the opposing party to produce, and stating the relevance thereof;

d. Whether the parties request a hearing for witnesses to provide testimony to support any disputed facts and, if so:

i. Provide a list of the witnesses that each party proposes to call;
and

ii. Provide a brief statement or summary of the disputed fact(s) to be addressed by each witness;

e. If the parties would be willing to enter into negotiations on resolving the case amicably either through the assistance of the Office of the Ombudsman and Mediation Services or *inter partes*.

(Signed)

Judge Joelle Adda

Dated this 18th day of July 2019