



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/052/T
Order No.: 029 (NY/2022)
Date: 16 March 2022
Original: English

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

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:
Evelyn W. Kamau, OSLA

Counsel for Respondent:
Yehuda Goor, ALD/OHR, UN Secretariat

Introduction

1. On 21 June 2021, the Applicant filed an application challenging: (1) the denial of her sick leave entitlement for the periods: (a) 1 October 2020 to 1 December 2020; and (b) 2 December 2020 to 30 March 2021 (sick leave decisions); and (2) alleged discriminatory practices against her.

2. The Respondent filed his reply submitting that the application was not receivable on three grounds. First, the application is moot as the Applicant has been granted the relief she requested. The Organization has certified the Applicant's sick leave requests from 1 October 2020 to 1 December 2020 and from 2 December 2020 to 30 March 2021. Second, the Applicant does not precisely identify the specific administrative decision she relies on to demonstrate the alleged discriminatory practice. Third, the discriminatory practices claim is not receivable because the Applicant did not exhaust internal remedies.

3. By Order No. 19 (NY/2022) dated 9 February 2022, the Tribunal ordered the Applicant to file a response to the Respondent's reply, including the submissions on receivability.

4. The Applicant duly filed her response on 22 February 2022 maintaining that the application is still receivable as not all the relief she seeks has been granted. The Applicant further requested disclosure of additional evidence.

Consideration

5. The Applicant requests disclosure of the relevant redacted attendance records from her section. The Applicant contends that disclosure of the records is relevant for her claim that the contested decision was discriminatory in nature. The Applicant claims that while her request to telecommute was refused, colleagues in similar circumstances carrying out similar tasks and serving in the same capacity as the Applicant during the same period, had their requests granted either to telecommute or enjoy flexible work arrangements.

6. Having reviewed the parties' submissions, the Tribunal considers it appropriate and in the interest of justice to direct the Respondent to file further submissions, including on the practice of telecommuting in the Applicant's section. In particular, the Respondent is to disclose whether and until when other members of the Applicant's section were granted the discretion to telecommute, including outside of the duty station. The submission should include the staff members' job titles and the basis for the approval or denial of their requests for telecommuting.

7. In light of the above;

IT IS ORDERED THAT:

8. By **4:00 p.m., on Wednesday, 30 March 2022**, the Respondent is to file a response to the Applicant's submission dated 22 February 2022, including the submissions on the practice of telecommuting in the Applicant's section. The submission shall not exceed five pages, using Times New Roman, font 12 and 1.5 line spacing.

(Signed)

Judge Joelle Adda

Dated this 16th day of March 2022