



Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

KENNEDY

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

George G. Irving, OSLA

Counsel for Respondent:

Albert Angeles, AAS/ALD/OHR/UN Secretariat
Lucienne Pierre, AAS/ALD/OHR/UN Secretariat

Introduction

1. On 29 October 2021, the United Nations Appeals Tribunal (“UNAT” or “Appeals Tribunal”) rendered a judgement (Judgement No. 2021-UNAT-1184) concerning disciplinary sanctions of a written censure with loss of four steps in grade and deferment for two years of eligibility for consideration of promotion, imposed on 1 October 2018 by the Under-Secretary-General for the Department of Management Strategy, Policy and Compliance (USG/DMSPC) on the Applicant, a Security Officer with the Department of Safety and Security (DSS) at United Nations Headquarters in New York. This was because after printing confidential United Nations information on 17 May 2017, in the form of e-mail correspondence about security-related issues, the Applicant lost the printed correspondence and did not report this loss to anyone; and that the same printed correspondence containing confidential information was published the next day by *Inner City Press*, a private online blog.

2. In its judgment, the Appeals Tribunal affirmed the finding of facts as established in this Tribunal’s judgement of 15 December 2020 (Judgement No. UNDT/2020/209), by which this Tribunal had rejected the application challenging the said disciplinary sanctions imposed by the USG/DMSPC. The Appeals Tribunal also found that “UNDT did not err in determining that the Appellant’s actions amounted to misconduct, regardless of whether those actions amount to gross negligence as required by ST/SGB/2004/15”. However, the UNAT vacated the portion of this Tribunal’s judgement finding that the disciplinary measures imposed on the Applicant were proportionate and rescinded the administrative decision imposing disciplinary measures. The UNAT further directed the USG/DMSPC, if she considered it appropriate, to issue a new decision on disciplinary measures with adequate reasons.

3. On 22 February 2022, the USG/DMSPC issued a new decision imposing upon the Applicant the disciplinary measures of written censure with loss of four steps in grade (“the contested decision”) based on the same facts.

4. On 1 April 2022, the Applicant filed an application challenging this decision.

5. On 29 April 2022, the Respondent filed a reply urging the Tribunal to reject the application on the basis that the contested decision was based on facts established by clear and convincing evidence.

Considerations

6. Pursuant to art. 19 of the Rules of Procedure of the Dispute Tribunal, the Tribunal may at any time issue an order or give any direction which appears to be appropriate for the fair and expeditious disposal of a case and to do justice to the parties.

7. Having taken into consideration the pleadings of the parties, the Tribunal has concluded that the Applicant should be given an opportunity to comment on the Respondent's reply.

IT IS ORDERED THAT:

8. On or before 6 March 2023, the Applicant shall file a rejoinder to the Respondent's reply.

9. Unless otherwise ordered, with the filing of the Applicant's submission on or before 6 March 2023, the Tribunal will adjudicate the case on the papers before it.

(Signed)

Judge Joelle Adda

Dated this 20th day of February 2023