



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/025

Order No.: 018 (NY/2023)

Date: 24 February 2023

Original: English

Before: Duty Judge

Registry: New York

Registrar: Isaac Endeley

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Robbie Leighton, OSLA

Counsel for Respondent:

Alister Cumming, UNICEF

Note: This order has been corrected in accordance with Order No. 077 (NY/2023).

Introduction

1. On 3 May 2022, the Applicant, a former Ombudsman at the United Nations Children’s Fund (UNICEF), filed an application challenging the decision of the UNICEF Executive Director for Management imposing on the Applicant “the disciplinary measures of dismissal and a fine equivalent of EUR 5,300”. Specifically, the Applicant requests the Tribunal to rescind the contested decision and order his reinstatement or, alternatively, to award him two years’ net base salary as in-lieu compensation. He also requests moral damages for the detrimental effects of the administration’s actions on his state of mind, *dignitas* and personhood.
2. Additionally, the Applicant requests to be granted anonymity and asks the Tribunal to identify him only as *Applicant* and to redact all personally identifiable information in all orders and the judgement in this case.
3. Moreover, the Applicant requests an oral hearing and submits that a hearing is necessary for the adjudication of this case. Also included with the application was a request for permission to exceed the normal page limits for an application, which the Tribunal immediately granted.
4. Finally, the Applicant indicated in his application that after receiving the Respondent’s reply, he would file a submission identifying all disputed issues of material fact that could be appropriately resolved through an oral hearing. However, no such filing has been received by the Tribunal.
5. The Respondent filed a reply on 3 June 2022 urging the Tribunal to reject the Applicant’s request for rescission of the disciplinary measure of dismissal and a fine. According to the Respondent, there is clear and convincing evidence that the Applicant engaged in serious misconduct and the imposed disciplinary measure was proportionate to the established misconduct. The Respondent also argues that the disciplinary measure was in compliance with applicable legal norms and that the Applicant has not provided any evidence that he suffered any harm as a result of the contested decision.

6. The Respondent also opposes the Applicant's request for anonymity, stating that there are no exceptional circumstances in this case that would justify a departure from the principles of transparency and accountability.

Considerations

7. 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.

8. Having considered the pleadings of the parties, the Tribunal has concluded that there are no exceptional circumstances justifying the grant of anonymity in this case. Under the rules of the Tribunal, its judgements are to be published, while protecting personal data, and made generally available by its Registry. It is also clear from the jurisprudence of the Tribunal that the names of litigants are routinely included in judgements of the internal justice system of the United Nations in the interests of transparency and accountability, and personal embarrassment and discomfort are not sufficient grounds to grant confidentiality (*Buff*, 2016-UNAT-639, para 21, citing *Kazazi*, 2015-UNAT-557, para 21).

9. Regarding the request for an oral hearing in this case, the Tribunal notes that while it normally grants hearings on disciplinary cases, this is usually a matter for the assigned Judge to decide. Accordingly, an appropriate order regarding a hearing will be issued in due course by the assigned Judge.

10. On the Applicant's intended submission concerning the disputed issues of material fact, the Tribunal considers it more efficient at this stage to request both parties to coordinate their actions to produce a consolidated statement of agreed or disputed facts. This will greatly facilitate the Tribunal's understanding of the factual issues at stake.

IT IS ORDERED THAT:

11. The Applicant's request to be granted anonymity is denied.

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12. By **3:00 p.m. on Friday, 31 March 2023**, the parties shall jointly produce and file a consolidated statement of facts setting out the agreed facts and the disputed facts in this case.

13. All other matters in this case will be decided by the assigned Judge.

(Signed)

Judge Joelle Adda

Dated this 24th day of February 2023