



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/023

Order No.: 075 (NY/2024)

Date: 2 July 2024

Original: English

Before: Judge Margaret Tibulya

Registry: New York

Registrar: Isaac Endeley

OKETCH

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

George G. Irving

Counsel for Respondent:

Bettina Gerber, HRLU/UNOG

Introduction

1. On 17 July 2023, the Applicant, a Humanitarian Affairs Officer with the Office for the Coordination of Humanitarian Affairs (“OCHA”) based in New York, filed an application in which he contests his non-selection for “the position of Senior Humanitarian Affairs Officer/Head of OCHA Liaison Office to the African Union”.
2. On 16 August 2023, the Respondent filed a reply in which he contends that the application is without merit.
3. By Order No. 106 (NY/2023) dated 16 October 2023, the Tribunal instructed the parties to file a jointly-signed statement informing the Tribunal whether they agreed to attempt informal resolution. In the event that the parties did not agree to attempt informal resolution, the Applicant was to file a rejoinder.
4. On 6 November 2023, the parties filed a joint submission informing the Tribunal that they had consulted with one another, but an amicable resolution did not appear feasible.
5. On 5 December 2023, the Applicant filed his rejoinder.
6. On 1 April 2024, the case was assigned to the undersigned Judge.
7. On 9 April 2024, a case management discussion (“CMD”) was held virtually via MS Teams to discuss the further proceedings.

Considerations

Applicant’s motion on discovery

8. The Tribunal recalls that at the CMD and in his motion filed on 12 April 2024, the Applicant requested the Tribunal to “direct the Respondent to provide an unredacted copy of correspondence contained in Annex R/3 and all documentation relating to the recruitment, including but not limited to internal transmittal

memoranda to and from Human Resources, as well as minutes and/or records of any assessment and review that was used to make the selection”.

9. The Tribunal also notes that in his response dated 3 May 2024, the Respondent expressed his opposition to the Applicant’s request for an unredacted version of Annex R/3, “which contains personal information in relation to third parties”. In the Respondent’s view, the Applicant “has not demonstrated why, and how, the disclosure of this information is relevant to assess the contested decision”. Despite his objection, however, the Respondent also provided, on an *ex-parte* basis, unredacted versions of the requested documents.

10. Having considered the parties’ written submissions and their oral representations made at the CMD, the Tribunal determines that the unredacted version of Annex R/3 is not necessary for the adjudication of the present case. Accordingly, the Tribunal denies the Applicant’s motion for disclosure and will provide its reasoning in its final judgment.

11. The Tribunal also considers itself to be fully briefed on the issues at stake and will decide the case on the papers. It is therefore ordered that the parties file their closing statements.

12. In light of the above,

IT IS ORDERED THAT:

13. The Applicant’s motion for discovery is denied.

14. By **4:00 p.m. on Tuesday, 9 July 2024**, the parties are to file their respective closing statements, at a maximum of five pages, using font Times New Roman, font size 12 and 1.5 line spacing, and solely based on previously filed pleadings and evidence. No new pleadings or evidence are allowed at this stage.

Case No. UNDT/NY/2023/023

Order No. 075 (NY/2024)

15. Unless otherwise ordered, the Tribunal will proceed to render its judgment thereafter.

(Signed)

Judge Margaret Tibulya

Dated this 2nd day of July 2024

Entered in the Register on this 2nd day of July 2024

(Signed)

Isaac Endeley, Registrar, New York