



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2024/026
Order No.: 045 (NY/2025)
Date: 15 April 2025
Original: English

Before: Judge Solomon Areda Waktolla

Registry: New York

Registrar: Isaac Endeley

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Sètondji Roland Adjovi, Etudes Vihodé Ltée

Counsel for Respondent:

Jacob B. van de Velden, DAS/ALD/OHR, UN Secretariat

Maria Romanova, DAS/ALD/OHR, UN Secretariat

Introduction

1. In accordance with Orders Nos. 037 and 041 (NY/2025) dated 3 and 9 April 2025, respectively, the hearing was held from 8 to 11 April 2025 and is to continue from 23 to 24 April 2025. During the hearing, on 11 April 2025, the Applicant made an oral motion for production of evidence and the Respondent objected thereto. The Tribunal instructed the Applicant to restate his motion in writing.

2. On 15 April 2025, the Applicant filed a motion for “production of evidence—consultation with medical doctor”.

Consideration

3. The Applicant submits as follows in his 15 April 2025 motion:

... On 11 April 2025, Dr. BL testified that he could not remember a case where a staff has been dismissed while on sick leave.

... Counsel for the Respondent during cross-examination brought an information that was not in evidence: Human Resources consulted the OIC, deputy of Dr. BL. The witness (Dr. BL) was only able to confirm that he was indeed on leave on 20 March 2024 when the consultation seems to have taken place with his deputy.

... It is worth noticing that Counsel for the Respondent is now bringing new evidence that was not in the case records until now. Yet, Counsel for the Respondent does not want to provide any supporting evidence on such a consultation.

... However, consultation can take various forms and it is important to review all circumstances surrounding a consultation to ensure that such a consultation was meaningful. In this case, not only there was no evidence of such a consultation, but the Respondent did not follow the legal provisions referred to by the Counsel for the

Respondent. If the Respondent had followed such a process, it would have mentioned it in the sanction decision to show that the decision respected the required process.

... Indeed, this information only came to the knowledge of the Applicant and the Tribunal [surreptitiously], and the Counsel for the Respondent conveniently argues the presumption of regularity to refuse any production of the evidence of such a consultation.

... The Applicant objects to this abuse of process aiming at hiding relevant information on the lawfulness of the decision that negatively affected his life. The production of this evidence is critical for the fairness of the trial and the transparency of the disciplinary procedure.

... The Applicant further argues that this evidence could make it necessary to call the deputy to testify on this specific issue of what was the substance of the consultation, for a full information of the Tribunal in this review process.

... Hence, the Applicant hereby renews the motion that he made orally during the hearing for the Respondent to produce the proof of the consultation that took place on 20 March 2024 with the deputy of Dr. BL.

4. While taking note of the Respondent's objection to the Applicant's motion for production of evidence stated during the hearing, the Tribunal finds that it cannot rule out that the evidence in question could be of significance to the adjudication of the present case.

5. In the interest of judicial efficiency, also observing that the undersigned Judge is only deployed with the Dispute Tribunal for a limited time period, the Tribunal will therefore grant the motion without rehearing the Respondent thereabout.

6. In light of the above,

IT IS ORDERED THAT:

7. By **1:00 p.m. on Monday, 21 April 2025**, the Respondent is to produce all relevant information and documentation in response to the Applicant's motion for production of evidence.

(Signed)

Judge Solomon Areda Waktolla

Dated this 15th day of April 2025

Entered in the Register on this 15th day of April 2025

(Signed)

Isaac Endeley, Registrar, New York