



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

AWAD

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:
Omar Yousef Shehabi, OSLA

Counsel for Respondent:
Alan Gutman, ALD/OHR UN Secretariat

Introduction

1. On 11 January 2021, the Applicant, a Chief in the Transport Unit in the United Nations Secretariat in New York, filed the application in which he contests that the Administration found certain school expenses for his child, namely the campus fee (except its capital assessment fee component), the school fee and the new school fee at Rutgers University, inadmissible in accordance with secs. 3.1 and 3.2 of ST/AI/2018/1/Rev.1 (Education grant and related benefits).

2. On 10 February 2021, the Respondent filed the reply in which he contends that the application is without merit.

3. By motion dated 18 March 2021, the Applicant seeks an order for disclosure of evidence. He indicates that he had requested the Respondent to produce this evidence “on a voluntary basis”, but that the Respondent had advised him that he had shared “all relevant documents” with the Tribunal and that the Tribunal would “advise” the parties if “any further documents” would be required.

Consideration

4. In the Applicant’s motion for disclosure of evidence, he requests that the Respondent produces:

a. “[A]ny policy, protocol, guidance, or evidence of established practice which the Administration may have developed with respect to the [educational grant]”;

b. “[A]ny internal correspondence that similarly guided the Administration to its decision in this case”;

c. “[A]ll records of its correspondence with Rutgers University because the email correspondence annexed to the Reply (Annex R/2) is incomplete”.

5. The Tribunal agrees with the Applicant that the present case “essentially presents a pure question of law regarding the interpretation and application of the Education Grant (EG) scheme, as codified in Staff Regulation 3.2, Staff Rule 3.9 and Appendix B to the Staff Rules, and as implemented by ST/AI/2018/1/Rev.1”.

6. Accordingly, the issue of the case essentially can be defined as the lawfulness of the Administration’s determination that the campus fee (except its capital assessment fee component), the school fee and the new school fee were inadmissible educational expenses in accordance with secs. 3.1 and 3.2 of ST/AI/2018/1/Rev.1.

7. The Tribunal further notes that the Appeals Tribunal has prohibited a so-called “fishing expeditions”, whereby one party requests the other party to produce evidence in “the most general terms” (see, for instance, *Rangel* Order No. 256 (2016)). A party requesting certain evidence must therefore be able to provide a certain degree of specificity to her/his request.

8. In light of the Administration’s duty “to act fairly, justly and transparently in dealing with its staff members” (see, for instance, para. 33 of *Obdeijn* 2012-UNAT-201), the Tribunal finds that the Applicant’s request for disclosure of documentation is reasonable, but that the Respondent’s production of documents must be limited to the scope of the issue of the present case. The Respondent is therefore not to produce documentation for the entire educational grant scheme. Also, the Respondent is not to produce any internal correspondence in which the contested administrative decision is being deliberated, but only those documents that the Administration eventually relied on when taking this decision.

9. Thereafter, unless otherwise ordered, the case should be ready for adjudication, although the parties will be allowed to summarize their final submissions in closing statements before then.

IT IS ORDERED THAT:

10. By **4:00 p.m. on Wednesday, 18 August 2021**, the Respondent is to file, together with his related submissions, any relevant documentation for:

a. Any policy, protocol, guidance, established practice or other document that the Administration relied on when taking the contested administrative decision;

b. All records of the Administration's correspondence with Rutgers University as relevant to the contested administrative decision.

11. By **4:00 p.m. on Wednesday, 1 September 2021**, the Applicant is to file his closing statement, which is to be five pages maximum, using Times New Roman, font 12 and 1.5 line spacing. Aside from the Applicant's submissions pertaining to the Respondent's 18 August 2021 submissions, the closing statement is solely to be based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage;

12. By **4:00 p.m. on Wednesday, 8 September 2021**, the Respondent is to file his closing statement responding to the Applicant's closing statement at a maximum length of five pages, using Times New Roman, font 12 and 1.5 line spacing. Aside from the response to the Applicant's submissions pertaining to the Respondent's 18 August 2021 submissions, the closing statement is solely to be based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage. The Respondent is to present his final submissions under the headings of the issues set out in Order No. 25 (NY/2021), para. 5;

13. By **4:00 p.m. on Monday, 13 September 2021**, the Applicant may file a statement of any final observations responding to the Respondent's closing statement. This statement of final observations by the Applicant must be a maximum of two pages, using Times New Roman, font 12 and 1.5 line spacing. It must be solely based

on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage;

14. Unless otherwise ordered, on receipt of the latest of the aforementioned statements or at the expiration of the provided time limits, the Tribunal will adjudicate on the matter and deliver Judgment based on the papers filed on record.

(Signed)

Judge Joelle Adda

Dated this 3rd day of August 2021