



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/070
Order No.: 135(NBI/2019)
Date: 23 August-2019
Original: English

Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

BELHAOUANE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

Counsel for the Applicant:
Mohamed Abdou, OSLA

Counsel for the Respondent:
Kong Leong Toh, UNOPS

Introduction

1. The Applicant is a former Finance Associate at the G-6/4 level working with the United Nations Office for Project Services (UNOPS) in Tunisia.¹
2. By an application filed on 29 June 2018, the Applicant challenges the decisions to impose on him the disciplinary measure of censure and to declare him ineligible, for a period of one year, for a higher level of contract.²
3. The Respondent filed a reply on 2 August 2018 in which he argued that he is prepared to proceed on the basis that the application is receivable insofar as it concerns whether the facts on which the sanction is based have been established and whether the established facts qualify as misconduct. The Respondent argues, however, that since the Applicant was censured and deemed ineligible for one year for a higher-level contract pursuant to a UNOPS provision regarding non-staff personnel, the application is not receivable insofar as it concerns whether the sanction is proportionate to the offence.³

ORDERS

3. In connection with the said reply, the Tribunal requests the Respondent to supplement his reply by clarifying:
 - a. whether at any time of the Applicant's engagement with UNOPS there were any rules applicable to UNOPS staff that allowed disciplining former staff members;
 - b. whether at any time of the Applicant's engagement with UNOPS there were any UNOPS rules applicable to UNOPS contractors that allowed

¹ Application, section VII.

² Application, section V.

³ Reply, section I.

disciplining contractors for acts committed prior to entering into a contract with UNOPS; and

c. whether UNOPS maintains personnel records separate for staff members and non-staff personnel.

4. The Respondent shall file the said submissions by **5.00 p.m. (Nairobi time) on Thursday, 29 August 2019.**

5. The Applicant shall respond to Respondent's argument on receivability, including any evidence that he may wish to submit, by **5.00 p.m. (Nairobi time) on Thursday, 5 September 2019.**

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 23rd day of August 2019

Entered in the Register on this 23rd day of August 2019

(Signed)

Eric Muli, Legal Officer, for,
Abena Kwakye-Berko, Registrar, Nairobi