



Before: Duty Judge
Registry: Nairobi
Registrar: René M. Vargas M., Officer-in-Charge

NK

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S
REQUEST TO AMEND THE ORDERS
ON THE UNDT WEBSITE AND
ON THE APPLICANT'S MOTION
FOR ANONYMITY**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Anna Mildenerger, UNHCR
Jan Schrankel, UNHCR

Introduction

1. On 15 April 2024, the Applicant, a staff member at the Office of the United Nations High Commissioner for Refugees (“UNHCR”) filed an incomplete application contesting several administrative decisions. The application was completed on 14 May 2024.

2. On 11 June 2024, the Tribunal issued Order No. 66 (NBI/2024) in which it, *inter alia*, granted the Respondent’s motion for leave to exceed the page limit and for an extension of time to file a reply. The Respondent was directed to file a reply by 27 June 2024 which he did.

3. On 21 June 2024, the Applicant filed a motion requesting the Tribunal to amend the Orders on the UNDT website and to grant anonymity, asking that the UNDT issue an Order allowing him to “proceed anonymously in this matter and amend the publicly accessible [O]rders to protect [his] identity and sensitive information related to [his] case.”

4. On 25 June 2024, the Respondent filed a reply to the Applicant’s motion of 21 June 2024 indicating that he does not object to the Applicant’s plea for anonymity. The Respondent did not make any submission in response to the Applicant’s request to amend the Orders on the UNDT website.

Consideration

5. In his request to amend the publicly accessible Orders relating to his cases published on the UNDT website, the Applicant submits that certain administrative processes associated with the Ethics Office related to his protection against retaliation and discrimination case are still ongoing and have not yet been finalized. The Applicant avers that making such information public at this stage is harmful to these processes and that ensuring the confidentiality of these proceedings is crucial to protect the fairness and impartiality of the investigations.

6. In his request for anonymity, the Applicant makes the following submissions:
 - a. Making his identity public in connection with this case exposes him to a significant risk of further discrimination, both professionally and personally. This exposure could severely impact his career and personal life given the stigma and biases that exist regarding mental health conditions;
 - b. Public disclosure of his identity and the specifics of his case poses a risk of irreparable harm to his personal and professional life. The potential for future discrimination, retaliation, and bias cannot be understated. Maintaining anonymity is essential to prevent any such harm and to uphold the principles of justice and fairness;
 - c. Granting anonymity is consistent with the principles of judicial fairness and precedents in cases involving sensitive personal information and potential harm to the Applicant. Protecting the identities of individuals in similar situations has been recognized as a necessary measure to ensure justice without exposing them to further risk;
 - d. Granting his request for anonymity does not diminish the public's interest in the transparency and accountability of the Tribunal's proceedings. The substance of the case and the Tribunal's decisions can still be made public without disclosing his identity; and
 - e. Protecting the anonymity of individuals who come forward with legitimate claims of discrimination and retaliation encourages others to report similar issues without fear of exposure and subsequent harm. This ultimately supports the broader goals of justice and organizational integrity.
7. Article 11.6 of the UNDT Statute states that the "judgements of the Dispute Tribunal shall be published, while protecting personal data, and made generally available by the Registry of the Tribunal". The names of litigants are routinely included in judgments of the internal justice system of the United Nations in the interests of transparency and accountability and any deviation from the principles of transparency and accountability can only be granted if there are exceptional

circumstances. Absent extraordinary circumstances, staff members who elect to raise claims for adjudication within the United Nations' internal justice system should expect that their names may be published along with the disposition of their claims. (*Buff* 2016-UNAT-639, paras. 21 and 23; *AAH* 2024-UNAT-1410, para. 14.)

8. The Tribunal, having taken note of the grounds submitted by the Applicant to support his motions, is also cognizant that this application raises sensitive information relating to the Applicant's identity, medical condition and as such it constitutes an exceptional circumstance that warrants granting anonymity. Further, the Respondent has no objection to the Applicant's plea for anonymity. Therefore, the Tribunal finds it appropriate to grant the Applicant's request.

Conclusion

9. In view of the foregoing, it is ORDERED THAT:

- a. The Applicant's request for anonymity in these proceedings is granted;
- b. The Applicant's name shall be anonymized in the Tribunal's Orders and in its judgment; and
- c. The Registry is directed to anonymize the Applicant's name in the Orders related to his cases that are currently accessible on the UNDT website.

(Signed)

Judge Sean Wallace (Duty Judge)

Dated this 4th day of July 2024

Entered in the Register on this 4th day of July 2024

(Signed)

René M. Vargas M., Officer-in-Charge, Nairobi