



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

NADEAU

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Peter A. Gallo, Esq.

Counsel for Respondent:

Elizabeth Gall, ALD/OHR, UN Secretariat

Introduction

1. By Order No. 184 (NY/2019) dated 26 December 2019, the Tribunal varied the dates for the parties to file their closing statements as follows: 2 January 2020 (the Applicant), 16 January 2020 (the Respondent) and 22 January 2020 (the Applicant). The Tribunal further rejected the Applicant's request for production of further evidence as per his submission of 24 December 2019 and observed that no further submissions from any of the parties will be accepted without the Tribunal's explicit permission.

2. On 2 January 2020, together with the closing statement, the Applicant's filed a "request to file ancillary documents" in which he stated that:

... In view of Order 184 stating in para 27 that no further submissions from any of the parties will be accepted without the Tribunal's explicit permission, Counsel for the Applicant seeks permission to file two such submissions within the next five days.

... The first of these involves a report of possible misconduct by [name redacted, Assistant Secretary-General of the (Office) of Human Resources Management ("ASG/OHRM")] which is not a matter that can be established by the Tribunal but is relevant to OHRM's collusion with [the Office of Internal Oversight Services ("OIOS")] OIOS and their role in maintaining the hostile working environment in OIOS.

... This cannot be attached hereto as the draft has not yet been finalized, but it is expected to be completed and submitted within a few days.

... The second submission relates to a matter that Counsel for the Applicant believes should be confidential and will therefore be submitted on an *ex parte* basis. The Tribunal will of course, be at liberty to waive that confidentiality but it is not appropriate that Counsel for the Applicant do so at this stage.

... Neither of these need[s] cause any delay to the revised deadlines from Order No.169 (NY/2019) for the Respondent to file his closing statement.

Consideration

3. With reference to Order No. 184 (NY/2019), the Tribunal reiterates that the scope of its judicial review is, *inter alia*, limited by the Applicant's definition of the contested administrative decision in his request for management evaluation and application pursuant with art. 2.1(a) of the Dispute Tribunal's Statute and staff rule 11.2. For this reason, the issues to be determined have been defined as:

- a. Was the decision to terminate the Applicant's continuing appointment lawful?
- b. If not, what relief would he be entitled to?

4. Also, as stated in para. 26 of Order No. 184 (NY/2019), the Respondent's closing statement is to respond to the Applicant's closing statement and not include any new submissions and/or evidence.

5. Accordingly, the Applicant's request of 2 January 2020 to file "ancillary documents" is therefore to be rejected because:

- a. Any alleged administrative decision(s) regarding "OHRM's collusion with [the Office of Internal Oversight Services ("OIOS")] OIOS and their role in maintaining the hostile working environment in OIOS" is/are not under review in the present case;
- b. The case is at the state of closing submissions for which reason new submissions and/or evidence will only be accepted in exceptional circumstances and where adequate and convincing reasons have been provided on why the requests have not been made earlier in the process. In this regard, the Tribunal further notes that the Applicant has produced no indication whatsoever why the submission of some further "confidential" information would be relevant and/or why this should be allowed on an *ex parte* basis;

6. For the fair and expeditious disposal of the case and to do justice to the parties in accordance with art. 19 of the Rules of Procedure of the Dispute Tribunal,

IT IS ORDERED THAT:

7. The Applicant's request of 2 January 2020 to file "ancillary documents" is therefore to be rejected;

8. The Tribunal observes that no further submissions from any of the parties will be accepted without the Tribunal's explicit permission.

(Signed)

Judge Joelle Adda

Dated this 3rd day of January 2020