



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/040

Order No.: 95 (NY/2020)

Date: 2 June 2020

Original: English

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**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

KHANE

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON CASE MANAGEMENT**

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**Counsel for Applicant:**  
Brandon Gardner, OSLA

**Counsel for Respondent:**  
Alan Gutman, ALD/OHR

## **Introduction**

1. On 18 June 2019, the Applicant, a former Senior Political Affairs Officer and Secretary of the Third Committee in the United Nations Secretariat, filed the application in which he contests the decision to transfer him “from his post of Senior Political Affairs Officer/Secretary of a Main Committee of the General Assembly to Senior Programme Management Officer, Central Planning and Coordination Division/[Department of General Assembly and Conference Management]”.
2. On 18 July 2020, the Respondent duly filed the reply in which he contends that the Applicant is without merits.
3. On 1 June 2020, the case was assigned to the undersigned Judge.

## **Consideration**

4. The Tribunal observes that only very sparse information and documentation is available on the post to which the Applicant was reassigned, namely that of Senior Programme Management Officer and how this post is commensurate with his skills, competencies and experiences. The parties are therefore instructed to file additional submissions with, as relevant, documentation thereon.
5. The Tribunal further notes that the parties appear to disagree on, at least some of the basic facts relevant to the present case. From the Respondent’s reply, the Tribunal, however, cannot discern which these facts are, because he states that “[t]he allegations of fact pleaded in the Application are denied, except as expressly admitted in the Reply”, but nowhere does he expressly admit any of the facts presented in the application. As some of these facts are either directly corroborated by evidence or reiterated in the reply, it is therefore not possible for the Tribunal to understand whether the Respondent disputes all facts listed in the application and/or, at least, some of the evidence filed by the Applicant.

6. With reference to *Noberasco* Order No. 155 (NY/2019) dated 5 November 2019, paras. 15-17, which is published on the Dispute Tribunal’s website, the Tribunal notes that stipulations such as the Respondent’s general denial of the Applicant’s facts are entirely unhelpful to the fair and expeditious disposal of the present cases and only work to delay the proceedings. The Tribunal further notes that art. 4 of the Code of Conduct for Legal Representatives and Litigants in person before the Dispute Tribunal regarding “basic standards” provides that:

1. Legal representatives and litigants in person shall maintain the highest standards of integrity and shall at all times act honestly, candidly, fairly, courteously, in good faith and without regard to external pressures or extraneous considerations.
2. Legal representatives and litigants in person shall act diligently and efficiently and shall avoid unnecessary delay in the conduct of proceedings.
3. Legal representatives should encourage and facilitate dialogue between the parties with a view to settling disputes in appropriate cases.
4. Legal representatives shall maintain the highest standards of professionalism and shall act in the best interests of the party they represent, subject always to upholding the interests of justice and ethical standards.

7. Accordingly, the parties are to file a jointly-signed submission in which they outline the agreed and contested facts.

8. In light thereof,

IT IS ORDERED THAT:

9. By **4:00 p.m. on Tuesday, 16 June 2020**, the parties are to file additional submissions with, as relevant, documentation on the post of Senior Programme Management Officer and how this post is commensurate with his skills, competencies and experiences;

10. By **4:00 p.m. on Tuesday, 23 June 2020**, each party is to file a response to the other party’s submission of 16 June 2020;

11. By **4:00 p.m. on Tuesday, 30 June 2020**, the parties are to file a jointly-signed statement providing, under separate headings, the following information:

a. A consolidated list of the agreed facts. In chronological order, this list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning;

b. A consolidated list of the disputed facts. In chronological order, the list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning. If any evidence is relied upon to support a disputed fact, clear reference is to be made to the appropriate annex in the application or reply, as applicable. At the end of the disputed paragraph in square brackets, the party contesting the disputed fact shall set out the reason(s);

12. After the abovementioned submission has been filed, the Tribunal will consider the further handling of the proceedings.

*(Signed)*

Judge Joelle Adda

Dated this 2<sup>nd</sup> day of June 2020