



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2024/015
Order No.: 024 (NY/2025)
Date: 21 February 2025
Original: English

Before: Judge Solomon Areda Waktolla

Registry: New York

Registrar: Isaac Endeley

SAITO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

George G. Irving

Counsel for Respondent:

Miryoung An, DAS/ALD/OHR, UN Secretariat

Halil Göksan, DAS/ALD/OHR, UN Secretariat

Introduction

1. On 22 March 2024, the Applicant, a former Senior Investment Officer, Office of Investment Management (“OIM”), United Nations Joint Staff Pension Fund (“UNJSPF”), filed an application contesting the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity dated 13 February 2024.
2. On 24 April 2024, the Respondent filed his reply contending that the application was meritless.
3. Following the Tribunal’s Order No. 069 (NY/2024) dated 20 June 2024, the parties filed a joint submission of consolidated lists of agreed and disputed facts on 8 August 2024. Each party also filed their separate submissions on evidence on 8 August 2024.
4. On 16 August 2024, the Respondent filed a motion for leave to respond to the Applicant’s submission on evidence dated 8 August 2024.
5. The case was assigned to the undersigned Judge on 23 December 2024.
6. Pursuant to Order No. 015 (NY/2025) dated 4 February 2025, a case management discussion (“CMD”) was held remotely via MS Teams on 12 February 2025 to discuss the case.

Considerations

7. Pursuant to art. 19 of the Rules of Procedure of the Dispute Tribunal, the Tribunal may at any time issue any order or give any direction which appears to be appropriate for the fair and expeditious disposal of a case and to do justice to the parties.

8. At the CMD, the parties submitted that no oral hearing on the merits is necessary in this case and made their respective submissions on the need for additional evidence.

The Applicant's request for additional evidence

9. In his 8 August 2024 submission, the Applicant requested the production of additional evidence from the Respondent and for leave to admit witness statements of EH and MR (names redacted for privacy reasons) into evidence in lieu of oral testimony. In his submission dated 16 August 2024, the Respondent objected to the Applicant's requests submitting that the Applicant's "requested documentation lacks clarity and/or relevancy" to the issues before the Tribunal.

10. The Tribunal will address each document requested in turn below:

"Information on the outcome of investigations into the cases of EH and WW (names redacted for privacy reasons) on their alleged visits to the [United States] Mission relative to the disputed facts"

11. At the CMD, the Applicant's counsel informed the Tribunal that his client retracts the disclosure request in relation to the alleged visits to the United States Permanent Mission. Therefore, there is no need for the Tribunal to adjudicate this request.

"The two Special Audit Review Reports of OIOS/IAD [Office of Internal Oversight Services/Internal Audit Division] relating to the complaint of the Applicant and her colleagues against the [Representative of the Secretary-General ("RSG")] for investment of the assets of the [United Nations Joint Staff Pension Fund], and the latter's complaint against certain staff in OIM"

12. The Applicant submits that the Special Audit Review Reports prepared in March 2020 by OIOS are related to the disputed facts in this case and will shed light on the credibility of complaints over management of UNJSPF's assets, the role of the

RSG and on concerns over the work performances of V0I and V02 (names redacted for privacy reasons).

13. The Tribunal considers that these reports may be relevant to the issues in the case and grants the Applicant's request for disclosure.

Two witness statements of EH and MR admitted into evidence

14. The Tribunal has reviewed the witness statements of EH and MR, the Applicant's former colleagues at UNJSPF, and considers that the unsworn statements may be entered into evidence, though with limited evidentiary value (see *Azzouni* 2010-UNAT-081 paras. 34-37 and *Nyambuza* 2013-UNAT-364 paras. 35-37). The Tribunal will grant the Respondent's request for leave to submit written comments on the two statements.

15. The Tribunal notes that amongst the numerous charges of misconduct levied against the Applicant, the Respondent alleges that the Applicant "supported and/or contributed to possible violation of the Staff Regulations and Rules and the Organization's policies arising from unauthorized disclosure of sensitive information concerning the OIM to external parties, including the media, a blog and/or Permanent Missions; and failed to report the possible misconduct of the staff members". The Tribunal considers that further evidence on this charge will assist its review. In particular, the Respondent is to provide evidence of what sensitive information concerning the OIM was leaked to external parties, including the Permanent Missions, together with details of the Applicant's alleged involvement in the dissemination of the sensitive information.

16. Pursuant to art. 9.4 of the Statute of the Dispute Tribunal (as amended by General Assembly resolution 78/248) and art. 19 of the Rules of Procedure of the Dispute Tribunal,

IT IS ORDERED THAT:

17. The Applicant's request for disclosure of the two Special Audit Review Reports of OIOS/IAD relating to the complaint of the Applicant and her colleagues against the RSG for investment of the assets of UNJSPF, and the latter's complaint against certain staff in OIM is granted.

18. By **4:00 p.m. on Monday, 10 March 2025**, the Respondent shall submit the two Special Audit Review Reports of OIOS/IAD and may redact any confidential information not relevant to this case.

19. The Applicant's request to admit the witness statements of EH and MR into evidence is granted.

20. The Respondent's request to submit written comments on the witness statements of EH and MR is granted. By **4:00 p.m. on Monday, 10 March 2025**, the Respondent shall submit his comments.

21. By **4:00 p.m. on Monday, 10 March 2025**, the Respondent is to provide evidence of the sensitive information concerning the OIM that was leaked to external parties, including the Permanent Missions, together with details of the Applicant's alleged involvement in the dissemination of the sensitive information.

22. By **4:00 p.m. on Monday, 17 March 2025**, the Applicant is to submit a rejoinder to the Respondent's reply. The rejoinder shall not be longer than eight pages using font Times New Roman, font size 12, with 1.5 line spacing.

23. Upon receipt of the above-referred submissions, the Tribunal will issue the relevant instructions for further case management.

(Signed)

Judge Solomon Areda Waktolla

Dated this 21st day of February 2025

Entered in the Register on this 21st day of February 2025

(Signed)

Isaac Endeley, Registrar, New York