



Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

UN Secretariat

Introduction

1. On 5 March 2023, the Applicant filed an application contesting the decision to terminate her permanent appointment with the United Nations.
2. The Applicant indicates in her application that she had a permanent contract with the United Nations since June 1989 and moved to New York in 1993 with her then partner, who also got a job at the UN Secretariat. She submits, *inter alia*, that she was the victim of domestic abuse by her then partner, and that due to such abuse, she had to escape to her parents' house in her home country when she was eight months pregnant.
3. She states that in 1995, after a year of recovery at her parents' house thanks to maternity leave and leave without pay, she was not ready to return to New York. She submits that she feared for her life and that of her newborn child as she knew that the abuser would be waiting for them there. She indicates that she contacted the Human Resources Office and requested to be transferred to any other duty station than New York. However, her request was allegedly rejected and as a result, her appointment was terminated. She claims, *inter alia*, that the Organization breached its duty of care towards her as a staff member.

Consideration

Preliminary issues: anonymity

4. Art. 11.6 of the Tribunal's Statute provides that "[t]he judgments of the Dispute Tribunal shall be published, while protecting personal data, and made generally available by the Registry of the Tribunal". Art. 26.2 of the Tribunal's Rules of Procedure contains a similar provision.
5. Considering the Applicant's allegations of domestic abuse and to avoid that she could be identified by the circumstances surrounding her case, the Tribunal finds it appropriate to anonymize her name in the present judgment pursuant to art. 11.6 of the Tribunal's Statute and arts. 19 and 26.2 of its Rules of Procedure.

Receivability

6. The issue at stake in the present case is whether the application is receivable, as receivability is a condition *sine qua non* for judicial review by the Tribunal.

7. Indeed, the examination of an application's receivability is a matter of law, which may be adjudicated without serving the application on the Respondent for a reply and even if not raised by the parties (see *Christensen* 2013-UNAT-335). Accordingly, the Tribunal deems it appropriate, on its own initiative and in accordance with art. 9 of its Rules of Procedure, to decide on the present application by way of summary judgment, which has been accepted as an appropriate means to deal with issues of receivability (see *Chahrour* 2014-UNAT-406; *Gehr* 2013-UNAT-313; *Cherneva* UNDT/2018/081; *Cherneva* UNDT/2020/074 and *Cherneva* UNDT/2021/003).

8. The Tribunal notes that according to the Applicant's submission, the contested decision was made in October 1995. However, since she only requested management evaluation of the contested decision on 1 December 2022, her request was considered time -barred.

9. Similarly, in accordance with art. 8.4 of the Tribunal's Statute and art. 7.6 of its Rules of Procedure, an application shall not be receivable if it is filed more than three years after the applicant's receipt of the contested administrative decision. The Applicant filed her application on 5 March 2023 indicating that the contested decision was made in October 1995, that is, more than 27 years earlier. Consequently, her application is not receivable, and the Tribunal does not have competence to review the merits of her claim.

Conclusion

10. In view of the foregoing, the Tribunal DECIDES to reject the application.

Case No. UNDT/NY/2023/004

Judgment No. UNDT/2023/020

(Signed)

Judge Joelle Adda

Dated this 24th day of March 2023

Entered in the Register on this 24th day of March 2023

(Signed)

Isaac Endeley, Registrar, New York