
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2010/052

Order No.: 159 (NBI/2011)

Date: 20 December 2011

Original: English

Before: Judge Vinod Boolell

Registry:

Introduction

1. The Applicant joined the United Nations Economic Commission for Africa (UNECA) in February 1995 as Chief, Building and Commercial Services Unit, Administration and Conference Services Division, at the P-4 level. He subsequently served on a series of contracts with ECA until November 1997,

6. On 23 June 2011, the Tribunal issued Order No. 63 (NBI/2011) stating that after reviewing the case records, further documentation was required from the Respondent. The Respondent was requested, as per art. 9 of the UNDT Statute, to provide information about the allegations at UNECA, the persons and/or organizations or department targeted and the outcome of any investigation taken.

7. On 22 July 2011, the Respondent submitted the documentation requested in Order No. 63 (NBI/2011). The Respondent requested the Tribunal to grant leave to: “(i) file and serve a redacted version of Annex R/2 on the Applicant; and

investigation reports. Annex R/3 contains case materials for the cases listed on the schedule in Annex R/2.

11. Article 18.4 of the Rules of Procedure of the Dispute Tribunal states that: “The Dispute tribunal may, at the request of either party, impose measures to preserve the confidentiality of evidence, where warranted by security interests or other exceptional circumstances.” When making such a determination, the Tribunal must “weigh the competing interest of the parties, the exigencies of the case, and notions of due process and fair trial.”¹

12. On 26 July 2011, the Applicant in this case conceded to the disclosure of R/2 and R/3 on a “counsel’s eyes only” basis in his “Submission concerning disclosure of documents produced pursuant to Order No. 063”.

13. The disclosure of confidential information on a “Counsel’s eyes-only” basis is a form of limited disclosure preventing the Applicant in this case from viewing the sensitive information while nevertheless allowing the Applicant’s Counsel to litigate on the basis of that information.

14.

18. The Tribunal notes that the Applicant's Counsel filed his closing submissions on 5 August 2011 as agreed by the parties. But he did indicate in a Motion filed on 19 September 2011, that he might consider filing additional submissions on receipt of the documents subject to confidentiality.

19. Should Counsel for the Applicant feel the need to make use of any of the materials contained in the Annexes for the purposes of obtaining further instructions from the Applicant or to supplement his closing submissions that have already been filed, he should seek further direction from the Tribunal.

(Signed)

Judge Vinod Boolell

Dated this 20th day of December 2011

Entered in the Register on this 20th day of December 2011

(Signed)

Jean-Pelé Fomété, Registrar, Nairobi