



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2012/047
UNDT/NBI/2012/072
Order No.: 240 (NBI/2014)
Date: 30 October 2014
Original: English

Before: Judge Vinod Boolell
Registry: Nairobi
Registrar: Abena Kwakye-Berko

BA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S MOTION
TO WITHDRAW**

Counsel for the Applicant:
Alexandre Tavadian, OSLA
George Irving

Counsel for the Respondent:
Susan Maddox, ALS/OHRM
Cristiano Papile, ALS/OHRM

Introduction

1. The Applicant is a staff member of the Economic Commission for Africa (ECA). She filed an Application on 10 August 2012 contesting the decision to issue allegations of misconduct against her. This Application was registered in the Registry's records as UNDT/NBI/2012/047.

2. The Respondent submitted his Reply on 7 September 2012.

3. At the conclusion of the above disciplinary process, the Applicant subsequently filed a second Application on 10 December 2012 contesting the decision to impose on her the disciplinary measure of demotion with deferment, for one year, of eligibility for consideration for promotion. This Application was registered in the Registry's records as UNDT/NBI/2012/072.

4. The Respondent submitted a Reply on 9 January 2013.

5. On 23 April 2014, the Tribunal issued Order No. 081 (NBI/2014) consolidating the two cases and informing the Parties of the date the hearing would be held on.

6. On 30 May 2014, the Parties submitted a joint motion for postponement of the hearing in order to explore informal resolution. This Motion was granted until 4 August 2014.

7. On 31 July 2014, the Parties submitted another joint Motion for postponement of the hearing, which was granted pursuant to Order No. 193 (NBI/2014). The Tribunal suspended proceedings until 1 October 2014.

8. On 29 September 2014, the Parties informed.0045 T6 was grant33 Twearing suspendetha19.65 -

potential identifier actually identifies an individual depends on the context. A name especially a common name by itself may not be considered personal data but if associated with other elements it may constitute personal data.

13. When considering a motion to redact names from a judgment a number of factors need to be considered. Has the judgment been the result of a hearing in public, as is usually the case? Is there any particular private element of a litigant's life, personal or professional, that necessitates protection? Has the request been made timely? How would the public interest of open and transparent justice be served if a redaction of names is granted? That list is of course not exhaustive but these factors have to be borne in mind.

14. In the present case, the Tribunal notes that the matters have been on the docket of the Tribunal for almost two years. The Orders issued by the Tribunal have been on the website of the Office of Administration of Justice (OAJ) for nearly two years. At the time the cases were filed with the Registry and the Orders were issued and published, the Applicant did not show any apprehension or concern about her reputation or her exposure to ridicule. This belated realization of the need for confidentiality is simply beyond comprehension. The Tribunal will here refer to what the United Nations Appeals Tribunal (UNAT) stated in *Pirnea* 2014-UNAT-456:

Article 10(9) of the Statute provides that “[t]he judgements of the Appeals Tribunal shall be published, while protecting personal data, and made generally available by the Registry of the Tribunal”. Article 20(2) of the Rules provides that “[t]he published judgements will normally include the names of the parties”.

The foregoing provisions make clear that one of the purposes or goals of the new system for the administration of justice is to assure that the judgments of the Appeals Tribunal are published and made available to the Organization's staff and the general public. Public dissemination of the appellate judgments helps to assure there is transparency in the operations of the Appeals Tribunal. It also means, sometimes fortunately and other times unfortunately, that

thirdly the Applicant has not shown any exceptional reason that requires a departure from open and transparent justice.

17. The Tribunal hereby records the contents of the Applicant's Motion and orders that the matters of