
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/048/T

Order No.: 104 (NY/2021)

Date: 3 November 2021

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

SALEH

v.

SECRETARY-GENERA

Introduction

1. On 1 September 2020, the Applicant filed the application in which he contests the “[i]mposition of disciplinary sanction of separation from service, with compensation in lieu of notice, without termination indemnity”.
2. On 29 September 2020, the Respondent duly filed the reply in which he submits that the application is without merit.
3. On 20 October 2021, the case was transferred from the Nairobi Registry of the Dispute Tribunal to the New York Registry.

Consideration

The issues of the present case

4. The Appeals Tribunal has consistently held that “the Dispute Tribunal has the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review”. When defining the issues of a case, the Appeals Tribunal further held that “the Dispute Tribunal may consider the application as a whole”. See *Fasanella* 2017-UNAT-765, para. 20, as affirmed in *Cardwell* 2018-UNAT-876, para. 23.
5. Accordingly, the basic issues of the present case can be defined as follows:
 - a. Was it a lawful exercise of discretion to impose against the Applicant disciplinary sanction of separation from service, with compensation in lieu of notice, without termination indemnity?
 - b. If not, to what remedies, if any, is the Applicant entitled?

The Tribunal's limited s

8. The Appeals Tribunal, however, underlined that “it is not the role of the
Dispute Tribunal to consider Q H G W As5AYP • [€

assigned Judge, although it is noted that the parties would, in any case, also need to file written closing statements summarizing all their submissions.

16. If any of the parties requests the production of further evidence, they are to specifically refer to the relevant documentation/witness and clearly indicate what disputed fact the relevant evidence is intended to corroborate. In this regard, the Tribunal notes that the Appeals Tribunal has prohibited a so-called “fishing expedition”, whereby one party requests the other party to produce evidence in “the most general terms” (see, for instance, *Rangel* Order No. 256 (2016)). A party requesting certain evidence must therefore be able to provide a certain degree of specificity to her/his request.

17. In light of the above,

IT IS ORDERED THAT:

18. By **4:00 p.m. on Monday, 29 November 2021**, 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 documentary and/or oral 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);

