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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/049  
Order No.: 024 (NY/2024)  
Date: 1

## Introduction

1. By Order No. 019 (NY/2024) dated 16 February 2024, the Tribunal issued a number of orders to each of the parties regarding the need for hearing witnesses
2. In response to Order No. 019 (NY/2024), the parties duly filed their submissions on 23 and 28 February 2024.

## Consideration

### *The necessity of hearing witnesses*

3. Article 9.4 of the Dispute Tri as introduced by the General Assembly on 22 December 2023, limits the extent to which the Dispute Tribunal needs to admit evidence in disciplinary cases as follows (emphasis added):

In hearing an application to appeal an administrative decision imposing a disciplinary measure, the Dispute Tribunal *shall pass judgment on the application by conducting a judicial review*. In conducting a judicial review, the Dispute Tribunal *shall* consider the record assembled by the Secretary-General and *may* admit other evidence to make an assessment on whether the facts on which the disciplinary measure was based have been established by evidence; whether the established facts legally amount to misconduct; whether

disciplinary measure imposed was proportionate to the offence.

4. Concerning the mean Tribunal in its seminal judgment, *Sanwidi* 2010-UNAT-084, para. 42, held that:

In exercising judicial review, the role of the Dispute Tribunal is to determine if the administrative decision under challenge is reasonable and fair, legally and procedurally correct, and proportionate. As a result of judicial review, the Tribunal may find the impugned administrative decision to be unreasonable, unfair, illegal, irrational, procedurally incorrect, or disproportionate. During this process the Dispute Tribunal is not conducting a merit-based review, but a judicial review. Judicial review is more





13. The Tribunal observes that, as stated above, no lack of clarity or irreconcilable dispute exists concerning lack of English knowledge in FTS as per . Regarding the other facts concerning which the Applicant propose MA to testify, none of these are relevant to the adjudication of the present case.

14. As for PS, the Applicant states that she would testify to her respective knowledge of [his] Sick Leave and Mental Health during the period of February 2022 up to July 2022 . The disputed fact related to testify is based on the Joint Submission of agreed and Disputed Facts submitted on Sept. 26, 2023, pp. 16 (paragraph 9), which is the consequence of falsely accusing [him] with 1





27. Unless otherwise ordered, on receipt of the latest of the aforementioned statements or at the expiration of the provided time limits, the Tribunal will adjudicate on the matter and deliver Judgment based on the papers filed on record.

*(Signed)*

Judge Joelle Adda

Dated this 1<sup>st</sup> day of March 2024

Entered in the Register on this 1<sup>st</sup> day of March 2024

*(Signed)*

Isaac Endeley, Registrar, New York