
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2024/015
Order No.: 069 (NY/2024)
Date: 20 June 2024

Introduction

1. On 22 March 2024, the Applicant, a former Senior Investment Officer with the United Nations Joint Staff Pension Fund (“UNJSPF”), filed an application in which he challenges his “separation from service with compensation in lieu of notice and without termination indemnity”.

2. On 24 April 2024, the Respondent filed a reply in which he contends that the application is without merit.

Consideration

The issues of the present case

3. The Appeals Tribunal has consistently held that “the Dispute Tribunal has

been established; (b) whether the established facts amount to misconduct; (c) whether the sanction is proportionate to the offence; and (d) whether the staff member's due process rights were respected. When termination is a possible outcome, misconduct must be established by clear and convincing evidence, which means that the truth of the facts asserted is highly probable. (In line herewith, see the Appeals Tribunal in para. 51 of *Karkara* 2021-UNAT-1172, and similarly in, for instance, *Modey-Ebi* 2021-UNAT-1177, para. 34, *Khamis* 2021-UNAT-1178, para. 80, *Wakid* 2022-UNAT-1194, para. 58, *Nsabimana* 2022-UNAT-1254, para. 62, and *Bamba* 2022-UNAT-1259, para. 37). The Appeals Tribunal has further explained that clear and convincing proof “requires more than a preponderance of the evidence but less than proof beyond a reasonable doubt—it means that the truth of the facts asserted is highly probable” (see para. 30 of *Molari* 2011-UNAT-164). In this regard, “the Administration bears the burden of establishing that the alleged misconduct for

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20. Upon receipt of the above-referenced submissions and when the case has been assigned to a Judge of the Dispute Tribunal, relevant instructions for further case management will be issued.

(Signed)

Judge Joelle Adda

Dated this 20th day of June 2024

Entered in the Register on this 20th day of June 2024

(Signed)

Isaac Endeley, Registrar, New York