Counsel for Respondent/Applic nt! " o# med A$dou% &' (A

Counsel for Appell nt/Respondent! Jo#n 'tompor

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$. T#is constitutes misconduct under C=/<L,/2012-00B% sDecsE. 1.@2 3% 2c3 nd 2m3M nd

c. DTE#e ppropri te s nction is dismiss l.

12. :n its Judgment% t#e UN,T rescinded t#e contested decision to dismiss "r. 'iddi7i nd repl ced t#e disciplin r. me sure 8it# suspension 8it#out p . for t#ree-mont# period. T#e UN,T set n in-lieu compens tion mount s one-.e r net $ se s l r. $ sed on "r. 'iddi7i;s s l r. on 4 No6em$er 2010. =inding t#ere 8 s n $sence of e6idence of ddition l # rm% t#e UN,T re9ected #is cl im for compens tion under Article 102B32b3 of t#e UN,T 't tute.

13. 5i6en t# t t#e e6idence 8 s essenti ll. $ sed on 8itness testimonies% t#e UN,T #eld

imp rti lit. nd/or competence. :n ddition% t#e 8itness st tements 8ere not t -en under o t#. =urt#er% t#e UN, T #e ring re6e led t# t "r. 'iddi7i 8 s spe -ing = rsi 8#en #e m de t#e lleged st tement 2not <nglis#3 8#ic# 8 s not mentioned in n. 8itness st tement summ ries or in t#e in6estig tion report. T#e UN, T noted t#is 8 s critic l since it could not $e e>cluded t# t t#e st tement 8 s not ccur tel. tr nsl ted $. t#e 8itnesses. T#ere 8ere

re7uests t# t t#e UN ,T;s 8 rd of compens tion in lieu of rescission $e reduced. :n support% t#e 'ecret r.-5ener l rgues t# t t#e UN ,T erred in f ct nd l 8 in finding t# t t#ere 8 s not cle r nd con6incing e6idence t# t "r. 'iddi7i # d t#re tened to -ill ot#er st ff mem$ers. T#e UN ,T $ sed its conclusion on t#e finding t# t t#e 8itness st tements 8ere unreli $le% "r. 'iddi7i did not identif. specific st ff mem$ers in #is t#re t% nd #is t#re t 8 s not sufficientl. serious. :n finding t#e 8itness st tements 8ere not reli $le% t#e UN ,T noted t#e. 8ere not t -en under o t# s re7uired in Nyambuza.[4] Ao8e6er% t#e f cts of t#is c se re distinguis#ed from Nyambuza in t# t t#e 8itness st tements 8ere consistent 2"r. *R st ted t# t "r. 'iddi7i t#re tened to -ill "r. A< nd "r. "HM "s. (" st ted t# t "r. 'iddi7i t#re tened to -ill "r. A< nd "r. "HM nd "r. <" testified t# t "r. 'iddi7i t#re tened to -ill "r. A< nd "r. "H3. T#is consistenc. is mple indici of reli $ilit. in line 8it#

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mount to misconductM iii3 8#et#er t#e s nction is proportion te to t#e offenceM nd i63 8#et#er t#e st ff mem$er;s due process rig#ts 8ere respected.

$he UN%$!s finding that there as no clear and convincing evidence that Mr. Siddiqi had threatened to 'ill identified staff members

29. 1e find t# t t#e UN,T erred in l 8 nd f ct le ding to m nifestl. unre son $le decision 8#en it #eld t# t "r. 'iddi7i # d not t#re tened to -ill identified st ff mem$ers $ut onl. # d m de n unspecified t#re t to -ill CsomeI st ff mem$ers.

30. T#e st tements of t#e t#ree 8itnesses% 8#o 8ere present during t#e meeting on 14 " . 2010 2"s. ("% "r. *R nd "r. <"3% render cle r nd con6incing e6idence t# t "r. 'iddi7i did not onl. utter n unspecified t#re t $ut t# t #e # d t#re tened to -ill identified st ff mem$ers. =rom t#e $eginning% during t#e disciplin r. in6estig tion% nd $efore t#e UN,T% t#e 8itnesses # 6e continuousl. nd consistentl. st ted t# t "r. 'iddi7i identified specific st ff mem$ers nd mentioned n mes 8#en uttering #is t#re t to -ill. All t#ree 8itnesses greed t# t t le st t8o n mes 8ere mentioned% "r. A<% "r. 'iddi7i;s =irst Reporting &fficer% nd "r. "H% t#e Ae d of UN:C<=% Aer t Kone &ffice. T#eir testimonies differed s to 8#et#er "s. (" nd fourt# st ff mem$er n med C'om .eI 8ere lso t rgeted. T#e UN,T;s conclusion t# t% due to t#is contr diction% t#e e6idence 8 s insufficient% is unre son $le. T#ere is no re son to $elie6e% nd t#e UN,T did not find% t# t t#e 8itnesses colluded nd -no8ingl. g 6e f lse st tement. As ll t#ree of t#em #e rd t#e e> ct s me t8o n mes% n error c n lso $e e>cluded. &n t#e contr r.% t#e rem ining discrep ncies $et8een t#eir testimonies c n $e e sil. e>pl ined gi6en t#e f ct t# t% ll t#ree 8itnesses indic ted t# t "r. 'iddi7i 8 s 6er. upset% emotion l% ngr.% nd spo-e 6er. f st. Also% ll t#ree 8itnesses testified t# t "r. 'iddi7i directl. ddressed "s. (" nd spo-e onl. to #er 8#ile "r. *R nd "r. <" 8ere sitting t t#eir des-s. T#erefore% "r. 'iddi7i 8ould not # 6e uttered t#e n me C"s. ("I $ut s id C.ouI inste d.

31. :t is lso unre son $le t# t t#e UN,T 7uestioned t#e credi$ilit. of t#e 8itness st tements $ec use C"r. <.". nd "r. *.R. testified t# t D"r. 'iddi7iE 8 nted to sc re t#ose 8#o 8ere conducting t#e spot c#ec- e>ercise nd "s. (.". 8 s in c# rge of t#e spot c#ec-s 8#ilst "r. A< nd "r. "H 8ere not in6ol6ed in conducting t#is e>erciseI.[10] :n #is ppe l% t#e 'ecret r.-5ener l correctl. points out t# t t#e UN,T;s ssumption is not correct nd t# t $ot# "r. A< nd "r. "H 8ere connected 8it# t#e spot c#ec-. Not onl. did "r. A< testif. to t#is

[10] :mpugned Judgment% p r . 40.

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3B. T#e UN,T m inl. dre8 conclusion from its ssumption t# t "r. 'iddi7i onl. uttered gener l nd unspecified t#re t $ut did not t#re ten to -ill identified st ff mem$ers. Ao8e6er% t#is is f ctu l nd leg l error% $ec use% s st ted $o6e% t#ere is cle r nd con6incing e6idence t# t "r. 'iddi7i did t#re ten to -ill t le st t8o identified st ff mem$ers.

34. Under t#e circumst nces% it 8 s l 8ful nd re son $le presumption of t#e 'ecret r.-5ener l to consider "r. 'iddi7i;s t#re t 8 s serious. T#ree 8itnesses # 6e testified t# t #e # d uttered t#re t to -ill identified st ff mem$ers% n mel. "r. A< nd "r. "H. "r. 'iddi7i # d poor rel tions#ip 8it# #is =R&% "r. A<% for long time.

30. T#e UN,T;s re soning t# t t#e C8itnesses confirmed t# t t#e. did not t -e t#e t#re t seriousl. nd did not report it to t#e rele6 nt ut#oritiesI # s no merit.[13] T#e UN,T itself found t# t "s. ("# d informed "r. 'iddi7i;s =R&% "r. A<% $out t#e incident 8#o t#en #imself filed compl int g inst "r. 'iddi7i. =urt#ermore

mem$ers. T#erefore% t#e Administr tion is $est suited to select n de7u te s nction $le to fulfil t#e gener l re7uirements of t#ese -inds of me sures! s nction 8it#in t#e limits st ted $. t#e respecti6e norms% sufficient to pre6ent repetiti6e 8rongdoing% punis# t#e 8rongdoer% s tisf. 6ictims nd restore t#e dministr ti6e $ l nce% etc.

O T# t is 8#. onl. if t#e s nction imposed ppe rs to $e $l t ntl. illeg l% r$itr r.% dopted $e.ond t#e limits st ted $. t#e respecti6e norms% e>cessi6e% $usi6e% discrimin tor. or $surd in its se6erit.% t# t t#e 9udici l re6ie8 8ould conclude in its unl 8fulness nd c# nge t#e conse7uence 2i.e.% $. imposing different one3. T#is r tion le is follo8ed in t#e 9urisprudence of t#is Tri$un l.D E :f t# t is not t#e c se% 9udici l re6ie8 s#ould not interfere 8it# dministr ti6e discretion.

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@/. T#e 'ecret r.-5ener l;s ppe l is gr nted nd Judgment No. UN,T/201//0/4 is #ere$.6 c ted.

&rigin l nd Aut#orit ti6e Persion! <nglis#

, ted t#is 29t# d . of " rc# 2019 in Ne8 Hor-% United 't tes.

-Signed. -Signed. -Signed.

Judge *nierim% +residing Judge R i-os Judge "urp#.

<ntered in t#e Register on t#is 29t# d . of " . 2019 in Ne8 Hor-% United 't tes.

-Signed.