


Judgment No. 2020-UNAT-1001/Corr.1



Counsel for Applicant: Self-represented

Counsel for Secretary-General: Noam Wiener

JUDGE KANWALDEEP SANDHU, PRESIDING.

1. The Appellant was an investigator with the Investigations Division (ID), Office of International Oversight Services (OIOS) at the United Nations Office at Vienna (UNOV). In March 2015, the Appellant filed a complaint of harassment and abuse of authority (A/HRC/16/30/Add.4) against the Appellee. The Appellant alleged that the Appellee had sexually harassed and abused her in the course of her duties. The Appellant also alleged that the Appellee had used his position of authority to intimidate and threaten her. The Appellant sought compensation for the harm suffered as a result of the Appellee's conduct. The Appellee denied the allegations and sought dismissal of the complaint. The Tribunal found in favor of the Appellant and awarded her compensation.

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17. In Judgment No. UNDT/2019/129 dated 23 July 2019,² the Dispute Tribunal partially granted the Appellant's application and awarded him USD 5,000 as moral damages. In the Judgment, the Dispute Tribunal first considered, and rejected, the Appellant's motion to file additional documents that his former counsel from the Office of Staff Legal Assistance (OSLA) had allegedly neglected to submit to the Dispute Tribunal, because, in the view of the Dispute Tribunal, the Appellant had not identified any evidence that would have been determinative for the disposal of the case, and any additional evidence, at the stage of near completion of the proceedings without compelling reasons, would unduly delay the disposal of the case. On the merits, the Dispute Tribunal was not persuaded by the Appellant's allegations about the lack of transparency of the investigation process, the breach of confidentiality during the investigation, and the lack of evidence of any managerial actions. However, the Dispute Tribunal concluded that, while the investigation was proper, it had taken longer than the standard three months' deadline, and it had been "very lengthy and cumbersome".³ Consequently, the Dispute Tribunal awarded the Appellant USD 5

19. The Appellant also says the Dispute Tribunal erred in fact and in law in rejecting his motion to file additional documents in the form of his e-mails with attachments to his OSLA counsel. The Appellant requests that the Appeals Tribunal consider such additional documents in order to reach a just and fair judgment.

20. In view of the “unreasonable delay” in the handling of his complaint, the Appellant maintains that the Dispute Tribunal’s award of USD 5,000 for moral damages was inadequate, as it took only the delay into account, but failed to consider the fact that he continued to be subject to the arbitrary superv

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40. The Administration's decision to not initiate disciplinary proceedings against the Deputy Director, ID/OIOS, was within its discretion and we find no fault in it. The decision was based on the FFP investigation report, which found that the work environment was tense and difficult due to the actions of the Appellant's supervisor. However, the decision-maker, the Administration or specifically, the USG/OIOS, considered the result of the investigation and decided the complained-of conduct on the part of the alleged offender did not amount to prohibited conduct within the meaning of ST/SGB/2008/5 and, therefore, the conduct could be addressed by managerial action rather than disciplinary means. The Dispute Tribunal held that the Administration was acting within the scope of its authority when it decided not to initiate disciplinary proceedings but to institute certain managerial actions. Having found that the conduct did not amount to prohibited conduct within the meaning of ST/SGB/2008/5, the Administration could not impose the reasonable accommodation requested by the Appellant, namely no contact with the Deputy Director, ID/OIOS. i(n)72.5 (t)-1.9 (o)

and *Kallon*,⁸ namely, that there must be supporting evidence beyond the staff member's testimony. The Dispute Tribunal had medical evidence in support. The Dispute Tribunal did not commit an error of law or fact in its assessment of the compensation award, which we find is fair and reasonable in the circumstances.

Whether the Appellant's name should be redacted in all documents pertaining to the case?

44. The Dispute Tribunal reissued its Judgment in Corrigendum 1 to redact the Appellant's last name. The Appellant says this is not sufficient and requests redaction of his name from all documents pertaining to his case.

45. However, the files and submissions filed by the parties are not public information. Therefore, it is not clear why there is a need for redaction of non-public information.

46. In any event, it is not clear that the Appeals Tribunal has the jurisdiction to order blanket redactions of the Dispute Tribunal's files or of non

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