



Case No. 2017-1064

Sarrouh

(Respondent/Applicant)

v.

Secretary-General of the United Nations

(Appellant/Respondent)

Order No. 280 (2017)

1. On 22 December 2016, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) issued Judgment No. UNDT/2016/220 in the case of Sarrouh v. Secretary-General of the United Nations . The UNDT found that Ms. Elissar Sarrouh was unlawfully terminated and, inter alia , ordered rescission and in-lieu compensation. The Secretary-General appealed the Judgment to the United Nations Appeals Tribunal (Appeals Tribunal) on 20 February 2017. Ms. Sarrouh filed her answer on 13 April 2017.

2. On 20 February 2017, the Secretary-General filed a motion seeking leave to adduce additional evidence. On 1 March 2017, Ms. Sarrouh filed her response to the motion asking that this Tribunal deny the Secretary-General's request. In the event the Appeals Tribunal grants the motion, she seeks leave to file additional evidence on her part. In his observations filed on 13 March 2017, the Secretary-General reiterated his claims and did not object to Ms. Sarrouh's counter-motion.

3. In support of his motion, the Secretary-General claims that the evidence he seeks to introduce demonstrates that Ms. Sarrouh was receiving termination indemnity and compensation in lieu of notice during the perir TD1.6(t)132D .02TD1.8d

earned or to be earned by her during the relevant period covered by the in-lieu compensation. All such evidence goes toward corroborating the Secretary-General's claim on appeal that the UNDT erred in awarding excessive in-lieu compensation. He further states that the relevance of the additional evidence was not known to him at the time of his submissions to the UNDT and only became apparent once the UNDT Judgment was issued. Citing several Orders of this Tribunal,¹ he argues that the evidence, thus, should be admitted in the interest of justice and the efficient and expeditious resolution of the case.

4. Pursuant to Article 2(5) of the Statute of the Appeals Tribunal and Article 10(1) of its Rules of Procedure, the Appeals Tribunal may receive additional evidence in exceptional circumstances, if it is in the interest of justice and the efficient and expeditious resolution of the proceedings. The Secretary-General primarily proffers/requests production of evidence for additional compensation and pension benefits received by Ms. Sarrouh as well as for income-producing activities on her part during the relevant period for the calculation of in-lieu compensation. Given that the Secretary-General's appeal challenges the amount of in-lieu compensation awarded to Ms. Sarrouh, this Tribunal finds the proffered evidence is relevant to the Appeals Tribunal's review of her case. The evidence sought to be adduced by Ms. Sarrouh in her counter-motion revolves around the same question of reasonableness and legality of the awarded in-lieu compensation and allows for its full and fair assessment. Considering, in addition, that the Secretary-General does not object to her counter-motion, both motions should be granted in the interest of justice.

5. For the foregoing reasons, the Secretary-General's motion and Ms. Sarrouh's

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