

Introduction

1. The Applicant filed an *ex parte* motion seeking the Dispute Tribunal to direct a former United Nations consultant (“Complainant”), who made allegations of sexual harassment against the Applicant, to “cease planting news items in outside publications” about him. The Applicant has been disciplined based on the allegations made by the Complainant and is apparently preparing an appeal against that decision.

Applicant’s submissions

2. In his motion filed on 11 July 2012, the Applicant states that the Complainant has been making public allegations against him through news outlets since October 2011. The most recent of these news reports regarding the Applicant were published in June 2012. The Applicant contends that these allegations have been made in breach of the confidentiality requirements under sec. 5.2 of ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority) and contrary to the caution issued by the investigation panel that those involved in the investigation should treat it with discretion and confidentiality. The Applicant submits that the confidentiality requirement continues to apply to the Complainant following the cessation of her contractual relationship with the Organization.

3. The Applicant submits that the news reports instigated by the Complainant contain false information and have caused him great consternation and distress and tarnished his otherwise unblemished reputation.

4. The Applicant has thus filed the present *ex parte* motion, seeking the Tribunal to (emphasis in original)

employ its plenary powers under [a]rt. 19 of the [Tribunal’s] Rules of Procedure to fashion a remedy in the form of a “cease and desist” order, or through a directive order to the Administration, to request [the Complainant] to cease planting news items in outside publications

about the present case, which is *sub judice*, on pain of facing a *contempt of court* citation or an appropriate legal measure.

5. The Applicant submits that, although the Complainant is a former consultant who is no longer affiliated with the Organization, his motion falls within the jurisdiction of the Dispute Tribunal. The Applicant explains that the Complainant “is seeking judicial action from the UN Administration and ultimately from the UN internal justice system” and thus “has voluntarily placed herself under the authority and administrative power of the UN Organization so that she is the subject to the jurisdiction of the Tribunal and its orders”. (The Tribunal notes, however, that the Complainant has already sought action from the Administration by making the allegations against the Applicant, and that she has not and possibly cannot, seek any redress from the internal justice system due to the jurisdictional limitations imposed by the Tribunal’s Statute.)

Consideration

6. Article 2.1 of the Dispute Tribunal’s Statute states:

1. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Secretary-General as the Chief Administrative Officer of the United Nations:

(a) To appeal an administrative decision that is alleged to be in noncompliance with the terms of appointment or the contract of employment. The terms “contract” and “terms of appointment” include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance;

(b) To appeal an administrative decision imposing a disciplinary measure;

(c) To enforce the implementation of an agreement reached through mediation pursuant to article 8, paragraph 2, of the present statute.

7. Under the first part of art. 2.1 of the Statute, the Tribunal is competent to hear and pass judgment on an application filed, firstly, “against the Secretary-General as the Chief Administrative Officer” and, secondly, against “an administrative decision

that is alleged to be in non-compliance with the terms of appointment or the contract of employment”.

8. The present motion is fraught with several difficulties and is essentially not properly before the Tribunal for the following reasons.

9. Firstly, the Applicant requests a remedy restraining the Complainant, either by herself or through the Organization, fr

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the motion be brought on notice, and that service be effected on the other side. However, in view of the particular nature of the present motion and the findings herein, the Tribunal, in exercise of its authority under art. 19 of the Rules of Procedure found no reason for the matter to be filed on notice, nor did the Tribunal consider it necessary to seek the Secretary-General's reply to the motion prior to disposing of it.

Redaction of the Applicant's name

16. The Applicant seeks to avoid the publication of his name in the present ruling for “professional, personal, and sensitive reasons”, and in order to avoid “frustrat[ing] and prejudic[ing] any judicial action that the Tribunal may contemplate”.

17. Motions for confidentiality and redaction must be decided on a case-by-case basis as the granting of such motions without sufficient reasons has the potential to not only invite requests of this kind in every matter, but also to negate a key element of the new system of administration of justice—its transparency. It is essentially a question of weighing the public interest against the private interest of the applicant (*Yisma* Order No. 63 (NY/2011)).

18. The present judgment does not deal with any substantive matters pertaining to the st-

