



Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

GEBREMARIAM

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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ON LIABILITY  
TRUST

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Counsel  
Self-represented

Counsel  
Sibongi iz  
Sardra B:

## Introduction

1. The Applicant began his career with the United Nations at the Economic Commission for Africa (ECA) in Addis Ababa, Ethiopia, in 1990. Currently, he is working at ECA as a Library Clerk at the G4 level under a permanent appointment.

2. On 18 April 2013, he filed an Application with the Dispute Tribunal contesting a decision taken by Hazel Scott, Director, Division of Administrative Services, ECA, to issue him with a written reprimand on 6 February 2013 because he had failed to attend a meeting in relation to his formal challenge of an administrative decision.

3. The Respondent filed a Reply to the Application on 30 April 2013.

## Facts

4. On 4 February 2013, the Applicant filed a management evaluation request concerning delays in granting his annual within-grade increment for the year 2013. He copied Ms. Scott on his complaint.

5. In the afternoon of the same day, 4 February 2013, Ms. Scott informed the Applicant that she intended to schedule a meeting between them and a Human Resources Officer to discuss his complaint.

6. In the late afternoon on 4 February 2013, Ms. Deborah Abebe, Ms. Scott's Assistant, informed the Applicant that Ms. Scott would like to meet with him on 5 February 2013.

7. The Applicant asked Ms. Scott's Assistant to reschedule the meeting because his colleague was on leave and he could not leave his desk unattended.

8. On 5 February 2013, Ms. Scott held a meeting expecting the Applicant to attend. When the Applicant did not appear at the meeting, his supervisors instructed him to attend.

9. On 5 February 2013, during a phone conversation with Ms. Scott's Assistant, the Applicant explained that he was not feeling sufficiently composed to discuss the matter with the Administration in a rational manner. He did not attend the meeting.

10. On 6 February 2013, Ms. Scott issued an interoffice memorandum entitled "Reprimand for Misconduct". In the memorandum, Ms. Scott informed the Applicant, *inter alia*, as follows,

[Applicant's] behavior of gross insubordination and disrespect to constituted authority amounts to misconduct for which you are hereby issued this letter of reprimand in line with Staff Rules 10.2 (b)(i). The Chief, HRSS is hereby advised to keep a copy of this letter of reprimand in your file. Please be informed that a repeat of this or similar behavior shall result in sterner actions against you.

11. In an email dated 7 February 2013, the Applicant protested against Ms. Scott's actions and, on 22 February 2013, he filed a management evaluation request of the decision to issue a reprimand.

12. On 16 April 2013, the Applicant received a letter from Ms. Scott in which she informed him that she had rescinded the reprimand and had decided to give him the opportunity to respond or comment on the circumstances surrounding his refusal to attend the meeting to which she had invited him on 5 February 2013.

13. On 18 April 2013, the Applicant filed the present Application with the Dispute Tribunal contesting Ms. Scott's decision to issue him with the written reprimand of 6 February 2013.

14. On 23 April 2013, the Management Evaluation Unit issued a letter informing the Applicant that his request was moot because the reprimand had been rescinded.

15. On 24 April 2013, the Applicant filed a management evaluation request of what he described as the decision to initiate a disciplinary process on the basis of allegations that have already given rise to a reprimand which was ultimately rescinded. On 26 April 2013, he filed an application for Suspension of Action.

16. On 6 May 2013,



attending the meeting of 5 February 2013 but no further due process requirements have been breached.

c. The Staff Rules are clear that a reprimand does not amount to a disciplinary measure. The imposition of a reprimand is an administrative measure and the requirements of due process as set out in ST/AI/371 (Revised disciplinary measures) do not apply.

d. In the present case, the failure by the Administration to afford the Applicant due process in the way of a chance to respond to the allegation of insubordination is the only due process right of the Applicant which has been breached and remedied.

e. Having accepted that the Applicant was not afforded the opportunity to be heard, the 6 February 2013 reprimand having been rescinded and all reference to it having been removed from the Applicant's Official Status File, the Respondent can be said to have corrected his errors.

f. The only claim to damages possible in this case is of moral damage since there is no economic loss arising out of the imposition and subsequent rescission of a reprimand.

g. In the present case there is no evidence of moral injury before the Tribunal. Any moral damage is *de minimis*.

## Considerations

21. The legal issue arising for determination in this case is whether the Applicant is entitled to compensation for moral damages as a result of the issuance of the 6 February 2013 reprimand which was subsequently rescinded and all reference to it removed from the Applicant's Official Status File.

22. The need for compensation must be demonstrated by evidence of damages or

Entered in the Register on this 20<sup>th</sup> day of November 2014

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi