

Introduction

1. On

sec. 8.5 of ST/SGB/2017/2 (Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations), the Ethics Office recommended the following four remedial actions to the Head of the Applicant s department

Case No. UNDT/NY/2018/085

Judgment No. UNDT/2020/057

13. By letter dated 24 December 2018, the Under-Secretary-General for Management informed the Applicant that the contested decisions were upheld.

Consideration

Request for anonymity

14. The Applicant requests that confidentiality be granted to him on the ground that the present case is related to protection granted to him against retaliation for reporting misconduct under ST/SGB/2017/2, which provides, at sec. 3, that the Administration has the duty to protect the confidentiality of the individual's identity and all communications through those channels to the maximum extent possible .

15.

but this was addressed in the third recommendation from the Ethics

decision challenged by an applicant and to identify the subject(s) of
(*Fasanella* 2017-UNAT-765, para. 20).

Whether the Administration failed to implement the recommendations from the Ethics Office

26. In light of the foregoing, the Tribunal will decide whether the Administration failed to implement the recommendations from the Ethics Office: (a) by not transferring the Applicant to a position outside his section; (b) by not recognizing his indefinite training instructor certification; and (c) by not referring his supervisor for possible disciplinary procedures. In reviewing the Secretary-General's exercise of discretion in this matter, the Tribunal is to follow the well-established standard of review as provided in *Sanwidi* 2010-UNAT-084, para. 40:

When judging the validity of the Secretary-General
of discretion in administrative matters, the Dispute Tribunal
determin

convincingly in the reply why it was not feasible to offer the Applicant a position outside his section.

29. The Applicant does not submit that the Administration offered positions that were not suitable for him. The Tribunal understands that the Applicant prefers to be transferred to a position outside his section, but the Ethics Office's recommendation only required that efforts be made, in consultation with the Applicant, to transfer him to either a position in the specialized units in his section or to another position in his department. According to the recommendation, the Applicant had no right to be transferred to a position outside his section.

30. Accordingly, the Tribunal finds that the Administration implemented the recommendation from the Ethics Office in this matter.

The Applicant's training instructor certification

31. The Tribunal recalls that the Ethics Office recommended that the status of the Applicant's certification be clarified. If the certification had expired under the applicable administrative framework, the Applicant was to be allowed to initiate the required process to obtain its reactivation.

32. The Applicant's certification was issued in May 2008. The Applicant submits that his training instructor certification was issued indefinitely and therefore the Administration should honor his acquired rights.

33. The Respondent submits that the departmental manual was revised in October 2012, and under the revised manual, the training instructor certification in question was only valid for three years. In November 2013, a training instructor

34. The Tribunal notes that under the departmental manual, paras. 4.27-4.28, the initial certification is valid for three years, and an instructor seeking recertification must comply with the recertification process as outlined in the manual

