
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2022/046

Judgment No.: UNDT/2023/050

Date: 12 June 2023

Original: English

Before: Judge Francesco Buffa

Registry: Nairobi

Registrar: Abena Kwakye-Berko

ASGEDOM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for the Applicant:
Self-represented

Introduction

1. The Applicant was a staff member with the United Nations High Commissioner for Refugees (UNHCR) in Ethiopia, holding a fixed-term appointment as a Registration Assistant at the G-4 level.
2. On 23 February 2022, the Applicant was separated from service for having engaged in fraud registration activities on 17 March and 16 April 2019.
3. On 28 May 2022, he filed an application contesting the disciplinary measure imposed on him and requested the rescission of the decision of dismissal and reinstatement.
4. The Respondent filed his reply on 29 June 2022, contending that the application was without merit.
5. This case was assigned to the undersigned Judge on 11 January 2023, for his deployment starting on 6 February 2023.

Facts

6. On 1 October 2013, the Applicant joined the UNHCR as a Registration Assistant at the G-4 level in Ethiopia.¹ He served at Trefeber Field Office, (FO) under the UNHCR Regional Office (RO) on a fixed-term appointment expiring on 15 July 2021.³
7. The Applicant was responsible of the registration data on proGres.⁴ ProGres is an SQL-based database containing all information on a registered person and a record

administration for Aw Barre Refugee Camp.⁶

8. From December 2016, t

the Applicant supervised this exercise, around 15-20 April 2019, the Applicant received an informal message to hand over the registration tools.¹⁷

11. On 25 April 2019, the Level 3 Coordinator identified irregular data entries such as household identification (ፅIDፅ) and names of replaced individuals. He informed the head of UNHCR Jijiga SO that the Applicant ፅadded photos and completed the data processing of at least one familyፅ where proof of registration and identification cards were issued when the Applicant was not authorized to do so ፅwithout the creation of an event in proGres by the litigation team.ፅ¹⁸

12. On 4 May 2019, ፅg Ipur gevqt Ggpgtcmu Ohleg (ፅIGOፅ) tgegkxgf c tgr qtvqhan alleged case of misconduct implicating the Applicant.¹⁹ It was reported that the Applicant exchanged photos of refugees in the database for photos of non-refugees to whom he provided refugee documents in exchange for payment.²⁰

13. On 27 May 2019, the Senior Registration and Identity Management Officer (ፅSRIMOፅ) at UNHCR Addis sent a report to the Head of UNHCR Jijiga SO about suspicious proGres entries made by the Applicant in case numbers 810 00014 444; 810 00002966 and 810 00002968.²¹

14. On 29 May 2019, the IGO opened an investigation.²²

15. On 6 August 2019, the Applicant was placed on Administrative Leave With Pay (ፅALY Pፅ).²³

16. On 7 August 2019, the Head of the UNHCR Jijiga SO informed the IGO that the life of the Applicant was under threat as the individuals who had paid him money

¹⁷ Application, section VII, page 4, para. 1.

¹⁸ Reply, annex R-1, *Investigation report with annexes*, page 8, para 17.

¹⁹ *Ibid.*, at page 3, para. 1.

²⁰ *Ibid.*, at annex 18, page 2, para. 2.

²¹ *Ibid.*, at annex R-1, *Investigation report with annexes*, page 8, para. 18 and at annex 18, page 7, para. 17.

²² *Ibid.*, at page 4, para. 19, at annex R-1, *Investigation report with annexes*, page 3, para. 3 and at annex 18, page 2, para. 2.

²³ *Ibid.*, at annex 18, page 2, para. 4.

substitution of individuals and registering people who are not refugees. ARRA felt that UNHCR ku pqvf qkpi cp{ y kpi cpf ku eqo r rcegpy kj y j cvy cu j cr r gplpi .ö³¹

23. The globalThe

29. On 17 February 2021, the Applicant returned the signed record of the interview.³⁸

30. By email dated 1 April 2021, the IGO convoked the Applicant for a second interview scheduled on 9 April 2021 for which he did not reply. The Applicant did not reply to the IGO emails dated 3, 5, 6 and 7 April 2021.³⁹

31. On 30 June 2021, the IGO shared its findings with the Applicant and invited him to address comments, which he did on 5 July 2021.⁴⁰

32. The IGO transmitted the investigation report to the DDHR on 12 July 2021.⁴¹

33. By letter dated 06 September 2021, the DDHR transmitted to the Applicant a copy of the investigation Report by which he was accused of fraud in the refugee registration exercise and failing to cooperate with the IGO's investigation.⁴²

34. On 29 September 2021, the IGO interviewed a witness who knew the refugee in case no. 810-0014444 and who testified that this refugee already passed away when

37. By email dated 10 November 2021, the Applicant explained to the DDRH that without information on a death case at the time of inactivation, he could not refer to proGres and know that the person who presented herself for reactivation of the case was acting at the expenses of a person already deceased. He further claimed that as a registration staff member, he could

database. He

47. The Applicant relies on the UNHCR Strategic Framework for the Prevention of Fraud and Corruption dated July 2013 which defines fraud as: "An act or omission, including misrepresentation or concealment of a material fact, that knowingly or intentionally misleads, or attempts to mislead, a party to obtain a benefit, whether directly or indirectly, whether for oneself or for a third party. Fraud could involve misappropriation of cash (such as fraudulent claims/disbursements) or other assets (such as fraudulent shipments, falsifying inventory records), or fraudulent statements (purposefully misreporting or omitting information)". Therefore, the main definition of fraud can be skimmed as: i. An act or omission including misrepresentation or concealment of fact that knowingly or intentionally misleads/attempts to mislead; ii. A party to obtain benefit directly/indirectly for oneself or third party.

48. The IGO failed to establish that the Applicant received money to undertake the work. Due to security reasons, travel restrictions and shutdown of telecom and internet service, the IGO could not contact the refugee witnesses in the camps. Furthermore, the IGO has misrepresented the facts described by an Ethiopian government official of ARRA who could not indicate the amount of money allegedly paid to the Applicant and facilitated by an unknown refugee.

49. As the Ethiopian government official of ARRA indicated to the IGO that additional information could be provided by the camp coordinator, the latter should have been interviewed.

50. The Applicant explains that he could not be available for a second interview with the IGO Officer. He could not access his email on time. His mother was not interviewed. The Applicant's mother was interviewed on the investigation report and on

The Respondent's case

52. The Respondent submits that the charges against the Applicant are proven and amount to serious misconduct. He was the only person with access to the database. The reactivation by the Applicant of the three cases and the record of the photos violated the procedure prescribed by

offence; a

69. On 30 August 2018, UNHCR and ARRA jointly published SOPs for level 3 registration in Ethiopia. The SOPs regulated the process and assigned roles and accountabilities. They were circulated to all UNHCR Sub-Offices and stakeholders on 30 August 2018. In Aw Barre Refugee Camp, information and dissemination actions about the SOPs were conducted in early March 2019, before the level 3 registration exercise started on 25 March 2019.

70. The SOPs contained safeguards to prevent fraud. Specifically, they provided 10 safeguards to prevent fraud. UNHCR and ARRA officials were trained to identify individuals whose photograph on proGres did not match the person who showed up during the exercise and when a person did not match existing proGres records. The litigation desk was charged with examining every case and deciding what to do. The existence of a litigation trigger and the specific follow-up had to be recorded on proGres.

71. The SOPs for registration jointly adopted by UNHCR and ARRA on 30 August 2018, whose aim is also to prevent fraud, prescribed that individuals identified at the waiting area as having inactive cases had to be referred to the Reception Desk. The Reception Desk referred the individuals to the Litigation Officer, who alone could reactivate the case. The Litigation Officer recorded specific events on proGres to record their actions.

72. To ensure that information is accurate and up to date, UNHCR conducts verification exercises periodically. When contact is lost with a person, for example if the person does not show up during a verification exercise, UNHCR conducts verification exercises periodically.

73. A UNHCR Registration Officer ran an audit report of proGres and reviewed all data entries made by the Applicant between 1 August 2018 and 1 May 2019. The audit report showed that: (i) on 17 March 2019, the Applicant uploaded a new photograph in case no. 810-00014444, inactive since 16 April 2014, and reactivated the case; (ii) on 16 April 2019, the Applicant uploaded a new photograph in case no. 810-00002966 inactive since 24 January 2014 and, the following day, reactivated the case; and (iii) on

16 April 2019, the Applicant uploaded a new photograph for case no.810-00002968, inactive since 24 January 2014 and, the following day, reactivated the case.

74. The proGres audit report, which records all changes made to proGres data, records that the Applicant uploaded photos and changed the processing status from I (inactive) to A (active) on the specified dates; the Applicant recorded the photos and reactivated the three cases before their scheduled appointments for the level registration 3 exercise. The Applicant reactivated the cases himself, without authority, without the cases having been referred to or checked by the Reception Desk or the Litigation Officer.

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79. The same can be said about the photographs in case no.810-00002968.
80. This emerges clearly from a comparison exercise, and it should also have been apparent to the Applicant (certainly more used to this kind of checks).
81. The Applicant reactivated the cases and uploaded the photos, although he was not involved in data-processing activities during the level 3 exercise, was not in the Field Office and had never met the individuals, so clearly contravening the procedure prescribed by the SOPs.
82. Moreover, he did it without a referral to the litigation desk and without recording of any litigation events on progress. By not following the established procedure, the Applicant avoided any control over his reactivation.
83. As the Respondent pointed out, the Applicant bypassed four key safeguards to prevent fraud i.e. the checking of fingerprints to avoid impostors, the requirement that individuals who sought reactivation be physically present, the segregation of duties, and the obligation to record every step on proGres.
84. The Applicant's failure to follow the established procedure for reactivation, and the fact that the litigation desk and without

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122. The Tribunal notes that the evidence would have not added relevant elements to the investigation, which was based to univoque clear results of a technical assessment of the activities performed on the proGres information system and was complete as such; the testimonies of these people (probably interested, given the contest, in benefiting of a registration as refugee at whatever cost) would have added nothing to the outcome of the investigation nor to this judgment, lack of decisiveness of their statements.

123. The Applicant, in sum, has fai