



## **Introduction**

1. By application filed on 19 April 2018, the Applicant, a Senior Trade Promotion Officer at the International Trade Centre, challenges the decision to separate him from service with compensation in lieu of notice and without termination indemnity for misconduct.
2. The Respondent filed his reply on 22 May 2018.
3. On 30 April 2018, the Respondent filed, *ex parte*, the







The evidence establishes that you engaged in inappropriate conduct towards Ms. X by sending her text messages calling her a “BB” and a “hamster” and giving her a gift of scarf together with a love message. Your conduct may be viewed as one of a sexual nature because the content of your messages to her, i.e., “BB” may be read to mean “baby” and the love message in the card is sexually suggestive. Such conduct may have reasonably been perceived as humiliating and offensive and Ms. X stated that she was intimidated by your conduct.

With respect to the three photographs of you on a jetty, the forensic analysis indicated that it is most likely that the photographs were taken by the camera of Ms. X’s mobile phone. As such, Ms. X’s account that while she was a consultant, in October 2014, you sought to meet her outside office, and lured her to the meetings under the disguise of “office retreats” is credible. This provides a context to your subsequent conduct, for instance, sending her text messages and giving her a card with a love message.

Your comment that the card with a love message was meant for your daughter and was stolen from your office is not satisfactory. There is no evidence supporting your contention that you had placed the scarf and/or card in your office, or that you reported those items as being stolen from your office. Contrary to your claim that the Administration shifted the burden of proof by requesting you to prove your innocence, giving you an opportunity to justify the evidence produced during the investigation does not shift the burden of proof.

You were Ms. X’s hiring manager and her first reporting officer. Additionally, the record indicates that Ms. X was under a precarious contractual condition as her temporary appointment had no guarantee of renewal, and that she was under the impression that you were in a position to renew her appointment. Given this imbalance in power between you and Ms. X, the substance of your text messages and the love message in a card exceeds the level of appropriate interactions, and may be reasonably perceived as humiliating and offensive. You knew or at least should have known that your conduct may be perceived as inappropriate and humiliating. Further, your conduct towards Ms. X exhibited your improper use of a position of influence, power or authority against her.

12. The complaints otherwise made against the Applicant, but not the subject of adverse decisions, shall not be considered by the Tribunal at the hearing of this case.

*Production of documents*

13. At the case management





- c. The documents filed by the Respondent *ex parte* are to be released to the Applicant subject to redaction. Therefore, by **Wednesday, 20 June 2018**, the Respondent shall file a redacted copy of the *ex parte* documents. The Tribunal shall then determine which redactions shall apply and release the said documents, under seal, to the Applicant, through those representing him;
- d. By **Wednesday, 20 June 2018**, the Applicant may file a response to the Respondent's reply;
- e. By **Wednesday, 27 June 2018**, both parties shall file a list of proposed witnesses including a short summary of the anticipated evidence to be given;
- f. Pursuant to art. 36 of the Tribunal's Rules of Procedure, the parties to this application may, by **Friday, 7 September 2018**, seek the issue of a summons for a person, either named or identified by position held, to appear as a witness or to produce documents or information relevant to the consideration of the Application;
- g. Both parties shall file with the Tribunal a list of

