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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/019  
OrderNo.: 88 (NY/2021)  
Date: 24 September 2021  
Original: English

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**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

ROLLI

v.

SECRETARY GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON CASE MANAGEMENT**

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**Counsel for Applicant:**  
Robbie Leighton, OSLA

**Counsel for Respondent:**  
Daniel Trup, WMO

## **Introduction**

1. On 26 July 2021, the Applicant, a former staff member of the World Meteorological Organization ( WMO ) filed a revised application in accordance with Order No. 58 (NY/2021) dated 10 June 2021 which he contests his summary dismissal from WMO.

2. On 9 August 2021, the Respondent filed the reply in which he contends that the application is without merit.

## **Consideration**

*The Tribunal's limited scope of review*

3. In the present case, the Respondent submits that the WMO Secretary General acted within his discretion when deciding to summarily dismiss the Applicant under former art. 101 of the WMO Staff Regulations, which in its second sentence, provides that the WMO Secretary General may summarily dismiss a member of the staff for serious misconduct

4. A decision maker's discretion is

decision of that of the Secretary-General (see *Sanwidi*, para. 40). In this regard, the Dispute Tribunal is not concerned with examining how the decision-maker reached the impugned decision and not the merits of the decision (*Sanwidi*, para. 42).

6. Among the circumstances to consider the exercise of its discretion the Appeals Tribunal stated [t]here can be no exhaustive list of the applicable legal principles in administrative law, but unfairness, unreasonableness, illegality, irrationality, procedural irregularity, bias, capriciousness, arbitrariness and lack of proportionality are some of the grounds

UNAT-525 (paras 23-24), *Nyambuza* 2013-UNAT-364 (para. 35), *Borhom*  
UNDT/2011/067 (paras. 46-47) and *Leal* 2013-UNAT-337 (para. 24);

b. The factual and legal grounds for



256 (2016)). A party requesting ~~can~~ evidence must therefore be able to provide a certain degree of specificity to her/his request.

14. Also, the Appeals Tribunal has held that the Dispute Tribunal is not to make its own factual findings if the parties have agreed on certain facts (*see, dnikov* 2015 UNAT-549, para. 28). In this regard, the Tribunal notes that the very purpose of producing evidence written or oral is to establish specific facts on which the parties disagree. Accordingly, there, ~~is~~ in essence, only a need for evidence ~~if a~~ is disputed (in line herewith, *see Abdellaoui* 2019 UNAT-929, para. 29, and ~~il-~~

IT IS ORDERED THAT:

18. By **4:00 p.m. on Friday, 8 October 2021**, the parties are to file a jointly-signed statement providing, under separate headings, the following information and relevant supporting documentation

a. A consolidated list of the agreed facts. In chronological order, this list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning;

b. A consolidated list of the disputed facts. In chronological order, the list is to make specific reference to each individual event in one paragraph in which the relevant date is stated at the beginning. If any evidence is relied upon to support a disputed fact, clear reference is to be made to the appropriate annex in the application or reply, as applicable. At the end of the disputed paragraph in square brackets, the party contesting the disputed fact shall set out the reason(s)

c. A list of the legal provisions upon which the contested decision was based. In case of disagreement, each party is to present separate submissions thereon.

19. If the parties would be willing to enter into negotiations on resolving the case amicably either through the assistance of the Office of the Ombudsman and Mediation Services *inter partes*.

20. By **4:00 p.m. on Friday, 8 October 2021**, the Applicant is to file a submission in which he specifies

a. The identity of the witnesses which he wishes to call and what disputed fact(s) each of these witnesses is to give testimony. Also, he is to provide a brief statement or summary of the issue and/or disputed fact(s) to

be addressed by each witness which may upon the Applicant's request, further serve as the examination chief. If the Applicant does not wish to call any witnesses but maintains its request for an oral hearing, he shall provide reasons for the requested hearing.

b. What additional written documentation he requests the Respondent to disclose, also indicating what disputed fact(s) such documentation is intended to support.

21. By **4:00 p.m. on Wednesday, 13 October 2021**, the Respondent is to file his response to the Applicant's 8 October 2021 submission.

22. After the above mentioned submission has been filed, the Tribunal will consider the further handling of the proceedings.

*(Signed)*

Judge Joelle Adda

Dated his 24<sup>th</sup> day of September 2021