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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2021/046/T

Order No.: 99 (NY/2021)

Date: 27 October 2021

Original: English

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**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

SAINT-LOT

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON CASE MANAGEMENT**

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**Counsel for Applicant:**

## **Introduction**

1. On 28 September 2020, the Applicant, a staff member of the United Nations Children’s Fund (“UNICEF”) filed an application contesting “Allegations of sexual harassment and a finding of misconduct in violation of Staff Regulation 1.2(a), Staff Rule 1.2(f), and section 2.1 of CF/EXD/2012-007”.
2. On 20 November 2020, the Respondent replied that the application is without merit.
3. Subsequently, the Applica

UNAT-550, para. 18, citing *Applicant* 2013-UNAT-302, para. 29, which in turn quoted *Molari* 2011-UNAT-164, and affirmed in *Ladu* 2019-UNAT-956, para. 15, which was further affirmed in *Nyawa* 2020-UNAT-1024.

5. The Appeals Tribunal has generally held that the Administration enjoys a “broad discretion in disciplinary matters; a discretion with which [the Appeals Tribunal] will not lightly interfere” (see *Ladu* 2019-UNAT-956, para. 40). This discretion, however, is not unfettered. As the Appeals Tribunal stated in its seminal judgment in *Sanwidi* 2010-UNAT-084, at para. 40, “when judging the validity of the exercise of discretionary authority, ... the Dispute Tribunal determines if the decision is legal, rational, procedurally correct, and proportionate”. This means that the Tribunal “can consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse”.

6. The Appeals Tribunal, however, underlined that “it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to # ona x le ]# “wh

*Scope of the application*

8. From the Applicant's submissions, the Tribunal understands that his contentions can be summarized as follows: the facts of the case were not properly established because some of the witnesses are not credible; the facts do not amount to misconduct and that the disciplinary process was tainted by racism against the Applicant.

*Evidence*

9. The Tribunal notes that

