
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2022/009
Judgment No.: UNDT/2022/128
Date: 6 December 2022
Original: English

Before: Judge Eleanor Donaldson-Honeywell

Registry: Nairobi

Registrar: Abena Kwakye-Berko

PIEZAS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**JUDGMENT ON LIABILITY AND
RELIEF**

Counsel for the Applicant:

Marco Zunino, OSLA
Jason Biafore, OSLA

Counsel for the Respondent:

Jacob van de Velden, DAS/ALD/OHR, UN Secretariat
Andrea Ernst, DAS/ALD/OHR, UN Secretariat

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transactional. The story came to light because it was alleged that the senior official had then refused to pay for the transaction, which in turn caused a commotion

reported the case, the alleged victim had denied any implication and the alleged witnesses all said they did not know where they first heard the rumour

21. Months later, on 5 September 2018, the Applicant was interviewed by the UNSOS/SIU.

22. from

a complaint by a UN contractor, who served at the time as Asset Manager at UNSOS. SIU investigated who had spread unsubstantiated rumours within UNSOS that the UN contractor had engaged in transactional sex with [Mr Y] in or around January 2018.

23. On 30 December 2018, SIU issued an investigation report.

24. A subsequent interview took place on 11 July 2019.

25. On 1 October 2019, SIU issued an addendum to the investigation report.

26. The investigation found as follows:

(a) the rumour originated from DB at the United Nations Interim ML; (ii) ML was the first person known to spread the rumour; and (iii) the Applicant, ML and SM further spread the rumour.

27. On 15 March 2021, the Applicant was given the opportunity to comment on the findings of the SIU investigation report.

28. She provided her comments on 14 May 2021.

29. The impugned decision was handed down on 18 October 2021.

preponderance of the evidence; and whether, as contended by the Applicant, there was bias in the decision taken against her and not others.

Whether there were any due process violations in the investigation leading up to the administrative measure imposed on the Applicant.

32. The Applicant claims that the Respondent breached the following provisions which violated her rights *per* ST/AI/2017/1 (Unsatisfactory conduct, investigations and the disciplinary process):

6.10 A staff member who has been **identified as the subject** of an investigation shall be:

(a) Permitted to be accompanied by a staff member to act as an

(b) **Informed** in writing, prior to or at the start of the interview, that **the staff member is the subject** of an investigation and of the **nature of the alleged unsatisfactory conduct**

(d) Given a reasonable(A)-37r00000887adurnis .04)(the)7REVVHU9ÈGS0

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the fore in the impactful and well-articulated *in camera* testimony of the female subject of the rumour.

46.

that harmful gossip and rumour mongering should be discouraged. The Tribunal agrees with the submission eloquently stated by Counsel for the Respondent as follows:

The notion of not knowing something provokes human instincts to seek the truth among employees by spreading rumours. In so doing, rumour-mills have the potential to penetrate most organizational structures⁵ In addition to the possible organizational impact, the Respondent is cognizant that rumours can amount to harassment by words, seriously affecting those implicated. Rumour mongering

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and will cause them, when they see or hear something, to opt to say nothing.

64. In all the circumstances, the reprimand decision was not justified and is File.

Anonymization

65. file includes confidential medical information. These confidential documents were filed under seal, and the information is not referred to in this Judgment. The motion for anonymization is rejected.

Compensation for Harm

66. The Applicant seeks compensation for the moral harm and reputational damage resulting from the impugned decision.

67. The Applicant has not presented documentary evidence to prove how her reputation was affected by the reprimand. However, as it relates to moral harm, the claim is supported by evidence under seal at A/23 and A/24 to the application.

68. The history of the matter lends credit to her claim that she would have suffered moral harm in the manner reported in her evidence. The evidence on record reflects that the Applicant was a passionate advocate of the Organization's zero-tolerance policy on SEA. She was also a stickler for compliance with the rules on reporting of such matters. The actions which led to her being reprimanded were clearly part of her zealous efforts to ascertain whether what she was told was credible enough to be reported.

69. In her written communications¹³ the Applicant relentlessly advocated on the obligations of a staff member to report SEA. She especially referred to the

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a. The administrative measure of a reprimand issued against the Applicant is rescinded. The Respondent is directed to remove the reprimand file.

b. The Respondent shall pay moral damages to the Applicant in the amount of USD1,000.

c. The compensation shall bear interest at the United States of America prime rate with effect from the date this Judgment becomes executable until payment of said compensations. An additional five per cent shall be applied to the United States of America prime rate 60 days from the date the Judgment becomes executable

(Signed)

Judge Eleanor Donaldson-Honeywell

Dated this 6th day of December 2022

Entered in the Register on this 6th day of December 2022

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi