



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2019-UNAT-929

**Abdellaoui
(Appellant)**

v.

Secretary-General of the United Nations

Counsel for Ms. Abdellaoui: Self-represented
Counsel for Secretary-General: Nathalie Defrasne

JUDGE RICHARD LUSSICK, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNDT/2018/114, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 21 November 2018, in the case of *Abdellaoui v. Secretary-General of the United Nations*. Ms. Naima Abdellaoui filed the appeal on 21 January 2019, and the Secretary-General filed his answer on 19 March 2019.

Facts and Procedure

2. At the material time, Ms. Abdellaoui was a Reviser in the Arab Translation Section (ATS), Languages Service (LS), Division of Conference Management (DCM), United Nations Office at Geneva (UNOG).

3. On 22 January 2017, Ms. Abdellaoui filed a harassment complaint under Secretary-General's Bulletin ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority) against 18 staff members mainly from the ATS/DCM/UNOG, as well as against the Chief, LS, covering the period from 2009 through 2016. She filed additional information on 16 and 22 February 2017.

4. On 30 March 2017, the Director-General, UNOG, advised Ms. Abdellaoui that he had decided to appoint a fact-finding panel (the Panel) to conduct an investigation into her allegations against two staff members of the ATS, and that she would be informed of the composition of the Panel. He also advised Ms. Abdellaoui that her allegations against the other staff members mentioned in her complaint would not be investigated but that they may, if relevant, be heard as witnesses, because in his opinion, the facts as she described them did not present possible prohibited conduct and/or were single events that did not form a pattern of harassing behaviour. The Director-General further advised Ms. Abdellaoui that her allegations against the Chief, LS, involved issues of management and non-selection and therefore fell outside of the scope of ST/SGB/2008/5. Lastly, the Director-General advised Ms. Abdellaoui that her claims concerning her non-selection for the post of Chief, ATS, would be handled under the management evaluation procedure that she had launched.

5. On 27 November 2017, the Director-General informed Ms. Abdellaoui that the investigation had been completed and that while it had been decided not to initiate disciplinary proceedings, managerial action pursuant to Section 5.18(b) of ST/SGB/2008/5 was warranted with respect to one of the two staff members who were subjects of the investigation.

6. On 24 January 2018, Ms. Abdellaoui requested management evaluation of the Director-General's decision.

7. On 16 April 2018, the Director-General informed Ms. Abdellaoui that following

11. On the merits, the Dispute Tribunal dismissed Ms. Abdellaoui's application regarding decision (b), finding that the contested decision was lawful, that the Administration had properly followed the procedure outlined in ST/SGB/2008/5, that Ms. Abdellaoui had failed to provide any particulars to support her contentions, and that the UNOG Director-General

and in avoiding interviewing her ATS colleagues who were not involved in the conflict between her and those who were bent on subjecting her to a mobbing campaign. If the investigators had been impartial, they would have found that the Chief, LS, had failed in her duty as a manager to ensure a harmonious work environment for Ms. Abdellaoui.

16. It was unreasonable for the Dispute Tribunal to separate the vacancy for P-5 Senior Reviser position and the selection process for the post of Chief, ATS, from the mobbing campaign, because her roster for the P-5 Senior Reviser position in 2014 and for the Chief, ATS, position triggered the mobbing campaign against her and resulted in the cancellation of the vacancy for the P-5 Senior Reviser position and her exclusion from the selection process for the Chief, ATS, position. The UNDT should have joined the present case with her other two pending cases, because “each of them sets the context for the other”.

17. In a total lack of impartiality, the Dispute Tribunal failed to consider or even mention the instances of grave harassment that Ms. Abdellaoui detailed in her UNDT application (break-in into her office and refusal to allow her to use dictation software).

18. Ms. Abdellaoui requests that the Appeals Tr

20. The Dispute Tribunal correctly concluded that the contested decision (b) was lawful, and that Ms. Abdellaoui has failed to show any reversible error by the UNDT in reaching that conclusion. The UNDT noted that Ms. Abdellaoui had failed to substantiate her claims of investigative irregularities, bias and other improper motivations with any particulars, and it correctly concluded that the ST/SGB/2008/5 procedure had been followed in the present case. Ms. Abdellaoui has neither specified a statutory ground of appeal nor articulated whether and how the Dispute Tribunal may have erred. In her appeal, she merely repeats her claims and assertions made before the Dispute Tribunal.

21. Ms. Abdellaoui has failed to establish that the Dispute Tribunal erred in not holding a hearing. The UNDT based its decision on the fact that she did not identify witnesses or indicate the issues on which they would give evidence and how they related to the merits of her application, well within its discretionary power in case management. It was not the role of the Dispute Tribunal to conduct a fact-finding hearing on her complaint or to hear witnesses whom the Panel had not heard.

22. Ms. Abdellaoui has failed to establish that the UNDT erred in denying her request for disclosure of the Panel report and any associated documents. The Dispute Tribunal properly exercised its discretion by balancing the prejudicial effects of such a disclosure and its limited probative value, and correctly concluded that Ms. Abdellaoui did not have the right to receive the Panel's full report and the associated documents.

23. The Secretary-General requests that the Appeals Tribunal dismiss the appeal in its entirety and affirm the impugned Judgment.

Considerations

24. The Appeals Tribunal has consistently emphas

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2019-UNAT-929

on the outcome of the investigation. Further, although she stated that the interview conclusions were “biased”, she did not provide further particulars to support that contention. Also, she did not substantiate her claim that the Panel had “brushed aside” the e-mails presented as evidence, nor did she identify the impact that it had on the outcome of the investigation. In the light of those omissions, the UNDT was correct to find that the proper procedure had been followed.

33. We have reviewed the Judgment and find that Ms. Abdellaoui’s case was fully and fairly considered by the UNDT and that there was no alleged error that would have changed the outcome of her case.

34. Accordingly, Ms. Abdellaoui has failed to demonstrate on appeal any error by the UNDT that would justify the reversal of its Judgment.

Judgment

35. The appeal is dismissed and Judgment No. UNDT/2018/114 is affirmed.

Original and Authoritative Version: English

Dated this 28th day of June 2019 in New York, United States.

(Signed)

Judge Lussick, Presiding

(Signed)

Judge Halfeld

(Signed)

Judge Murphy

Entered in the Register on this 19th day of August 2019 in New York, United States.

(Signed)

Weicheng Lin, Registrar