



Introduction

1. On 26 May 2020, the Applicant, the former Chief Executive Officer of the United Nations Joint Staff Pension Fund (“CEO/UNJSPF”) filed an application challenging the 16 January 2020 decision of the Under-Secretary-General for Management Strategy, Policy and Compliance (“USG/DMSPC”) “not to investigate [his] harassment complaint filed on 24 July 2019 in violation of the harassment policy, due process and other UN rules, regulations, and administrative issuances.”

2. On 26 June 2020, the Respondent filed his reply submitting that the application is not receivable *ratione personae* as the Applicant is no longer a staff member. In the alternative, the Respondent contends that the application has no merit as the contested decision was lawful.

Background

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Accordingly, any assessment of their statements and comments must take into account the latitude afforded staff members acting as staff representatives, as well as the principle of freedom of association which demands that the Administration refrain from interfering with the activities of staff representatives. Under these circumstances, pursuit of the matter within the context of a disciplinary process would not be warranted”.

Consideration

and conduct identified by the Applicant were part of staff representatives' efforts to reach out to their constituents on the administration of pension and disability benefits, and to ensure that the dialogue with management on pension and disability benefits was informed by staff comment. The Respondent states that the Secretary-General considered the latitude of expression afforded to staff representatives, as well as the principle of freedom of association, which demands that the Administration refrain from interfering with the activities of staff representatives. The Respondent argues that the Administration, therefore, properly determined that the facts described in the complaint, if proven, did not warrant an investigation.

20. Having reviewed the papers before it, the Tribunal is satisfied that the contested decision was lawful. In his 24 July 2019 complaint, the Applicant alleged that the staff members identi-5 (a)h]n0s tha.y co ide id idend0 Td(je6 (f)-5 (f)-2223ned[(11 (i(w)4 (toned[(11 (a11 (t

22. The Tribunal finds that it was reasonable for the USG/DMSPC to determine that the status and management of the UNJSPF is a legitimate subject of concern to staff at large and therefore comments made by staff representatives about the management of UNJSPF concern work-related issues. In this regard, the Tribunal notes that staff rule 8.1(f) entitles staff representative bodies to effective participation in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies.

23. Based on the record, it also was reasonable for the USG/DMSPC to determine that the Applicant's complaint did not identify any statement or conduct that would constitute a gross abuse by staff representatives of their right to express themselves on workplace issues. It is clear that the Applicant is unhappy about how the staff representatives articulated their concerns about the management of UNJSPF. However, the Tribunal notes that sec. 1.2 of ST/SGB/2008/5 clarifies that "[d]isagreement on work performance or on other work-related issues is normally not considered harassment ...".

24. The Applicant alleges that the USG/

USG/DMSPC acted unreasonably in making her decision. The contested decision was therefore lawful.

Conclusion

27. In light of the above, the application is rejected.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 18^h day of December 2020

Entered in the Register on this 18th day of December 2020

(Signed)

Nerea Suero Fontecha, Registrar, New York