



Before: Judge Rachel Sophie Sikwese

Registry: New York

Registrar: Isaac Endeley

FUSCO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Robbie Leighton, OSLA

Counsel for Respondent:

Alister Cumming, UNICEF

Introduction

1. On 1 November 2023, a Case Management Discussion (“CMD”) was held with the participation of the Applicant and Counsel for both parties, as per Order No. 113 (NY/2023) of 23 October 2023.

2. At the CMD, the parties agreed that the main issues for consideration in this case are:

- (a) Whether the application is not receivable *ratione materiae* because the Applicant failed to submit a timely request for management evaluation after notification of the impugned decision;
- (b) Whether the Applicant was given priority consideration for placement after the abolition of his post leading to termination of his permanent appointment;
- (c) Whether UNICEF met its obligations to assist the Applicant in identifying available suitable posts in which his services could be utilized; and
- (d) Whether the Applicant was subjected to a competitive selection process for available suitable posts.

3. The parties agreed that the application could be decided on the papers subject to an oral motion for disclosure of documents in the possession of the Respondent.

4. In light of the discussions at the CMD,

IT IS ORDERED THAT:

5. Pursuant to arts. 16.1 and 19 of the UNDT Rules of Procedure, providing for oral hearings and case management respectively, and for a fair and expeditious disposal of the case, the application shall be decided on the papers only as an oral hearing is not necessary.

6. The Applicant’s oral motion for disclosure is granted on the following terms:

By 3:00 p.m. on Friday, 10 November 2023, the Respondent shall file documentation covering the period from 1 July 2019 to 30 September 2022, specifically:

(a) Communications between the UNICEF Human Resources Office and Hiring Managers regarding priority consideration for the Applicant who was facing termination; and

(b) Communications regarding the Applicant's participation in the Senior Staff Rotation and Reassignment Exercise ("SSRRE").

7. **By 3:00 p.m. on Friday, 1 December 2023**, the parties shall file their respective closing submissions, which shall include any relevant observations on the documentation filed under Order No. 061 (NY/2023) and para. 6 above. The submissions shall not exceed seven pages, using font Times New Roman, font size 12 and 1.5 line spacing.

(Signed)

Judge Rachel Sophie Sikwese

Dated this 2nd day of November 2023

Entered in the Register on this 2nd day of November 2023

(Signed)

Isaac Endeley, Registrar, New York