



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

DANTAS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Monika Bileris

Counsel for Respondent:

Matthias Schuster, UNICEF

Alister Cumming, UNICEF

Introduction

1. On 29 September 2020, the Applicant, a staff member in the Field Office of the United Nations Children’s Fund (“UNICEF”) in Manaus, Brazil, filed the application to contest the decision to impose on her the disciplinary measures of (a) a written censure, (b) with a loss of 10 steps in grade, and (c) deferment, for three years, of eligibility for consideration for promotion. She further contests the imposition of the administrative measure of removal of her supervisory roles for a period of three years, during which time she would be required to enroll in appropriate training courses.
2. For the reasons stated below, the application is rejected.

Facts

3. Effective 1 January 2013, the Applicant took up her current position as a Programme Assistant at the GS-5 level at the Field Office in Manaus (“MFO”). The Applicant’s duties included, *inter alia*, supervising two outsourced personnel who provided general assistance to the MFO and acting as the Office’s Information and Communications Technology (“ICT”) focal point.
4. Between 2017 until mid-2018, UNICEF employed a vendor (“the vendor”) to provide two personnel to the MFO. UNICEF’s contract with the vendor sets out the responsibilities and services provided by two personnel, and cleaning and daily preparation and occasional serving of coffee were listed as daily tasks to be performed.
5. On 7 December 2017, Ms. AP (name redacted), then personnel provided to the MFO by the vendor, submitted two hand-written letters of complaint to UNICEF concerning the Applicant’s treatment of her as she was leaving the MFO after serving for about one year and six months. After Ms. AP left, the vendor replaced her by Ms. RL (name redacted).
6. On 30 July 2018, Ms. RL, assigned to work at the MFO, submitted a complaint against the Applicant to UNICEF regarding the Applicant’s treatment of her.

7. On 31 July 2018, Ms. RS (name redacted), another personnel assigned to work at the MFO by the vendor, submitted a similar complaint against the Applicant to UNICEF. Ms. RS requested that her assignment at the MFO be ended due to the Applicant's conduct toward her.

8. On 22 August 2018, Ms. RS stopped working at the MFO.

9. On 20 September 2018, nearly one month after Ms. RS' employment at the MFO ended, an ICT officer working for UNICEF noted that Ms. RS's Skype for Business Account indicated that she was online. The ICT officer corresponded with the person logged onto that account, who identified herself as the Applicant. The Applicant asked the ICT officer if it was possible to make a copy of Ms. RS' emails for future searches.

10. The Applicant also accessed Ms. RS' email account after the latter had left the MFO, and she also saved an email dated 13 August 2018, which Ms. RS had previously sent to UNICEF Human Resources colleagues concerning the Applicant's reluctance to use a newly installed biometric access system at the MFO.

11. On 6 September 2018, the Office of Internal Audit and Investigation ("OIAI") received a report of possible misconduct concerning the Applicant from the Brazil Country Office alleging that (a) the Applicant had engaged in conduct amounting to harassment and abuse of authority against several employees of the vendor and (b) that she had tampered with the biometric control software at the MFO. OIAI opened two separate investigations.

12. On 13 December 2018, the Applicant was interviewed by OIAI regarding two investigations.

13. In two investigation reports, OIAI concluded that (a) the allegations of harassment and abuse of authority implicating the Applicant were substantiated, and (b) the Applicant had gained unauthorized access to ICT equipment of a former vendor employee, while there was insufficient evidence to substantiate allegations relating to the biometric control software at the MFO.

14. Concerning the allegations of harassment and abuse of authority, OIAI noted that the Applicant told OIAI that she suffered from a medical condition, which was supported by a doctor's report, which may have had an impact on her work relationships.

15. On 21 and 23 August 2019, the two investigation reports produced by OIAI were referred to the Director, Department of Human Resources ("DHR") for appropriate action.

16. By charge letter dated 25 September 2019, the Director, DHR, charged the Applicant with misconduct, namely: misuse of UNICEF's ICT resources and harassment and abuse of authority in relation to her treatment of vendor employees (Ms. AP, Ms. RL and Ms. RS), including by grabbing Ms. AP by the arm on one occasion.

17. On 28 October 2019, the Applicant provided her response to the charges of misconduct.

18. By sanction letter dated 2 July 2020, the Deputy Executive Director, Management, informed the Applicant that based on a review of the case, it had been established that she had committed misconduct based on which the disciplinary and administrative measures were imposed on her.

19. On 29 September 2020, the Applicant filed the application.

20. On 30 October 2020, the Respondent filed the reply.

21. On 9 August 2021, in accordance with Order No. 62 (NY/2021), the parties filed a joint submission in which they set forth lists of agreed and disputed facts. The parties further submitted that they did not request the production of additional evidence or a hearing.

22. By Order No. 82 (NY/2021), the Tribunal decided to adjudicate the case based on the papers before it without additional evidence and directed the Applicant to file a statement responding to the Respondent's reply.

23. On 10 September 2021, according to Order No. 82 (NY/2021), the Applicant filed a final statement.

Consideration

Standard of review in disciplinary cases

24. The general standard of judicial review in disciplinary cases requires the Dispute Tribunal to ascertain: (a) whether the facts on which the disciplinary measure was based have been established; (b) whether the established facts legally amount to misconduct; and (c) whether the disciplinary measure applied was proportionate to the offence (see, for example, *Abu Hamda* 2010-UNAT-022, *Haniya* 2010-UNAT-024, *Portillo Moya* 2015-UNAT-523, *Wishah* 2015-UNAT-537, *Turkey* 2019-UNAT-955, *Ladu* 2019-UNAT-956, *Nyawa* 2020-UNAT-1024). When termination is a possible outcome, misconduct must be established by clear and convincing evidence, which means that the truth of the facts asserted is highly probable (see, for instance, *Molari* 2011-UNAT-164, and *Ibrahim* 2017-UNAT-776).

Whether the facts on which the disciplinary measure was based have been established

25. In the 2 July 2020 letter, the Applicant was sanctioned for: (a) misuse of UNICEF's ICT resources and (b) harassment and abuse of authority in relation to her treatment of some vendor employees, namely Ms. AP, Ms. RL and Ms. RS.

26. Since the Applicant's appointment was not terminated in this case, the Tribunal will examine whether the underlying facts of two charges are established by preponderance of evidence.

Use of UNICEF's ICT resources

27. With respect to the first charge, the Administration found, and the Applicant admitted that she accessed Ms. RS's Skype and email accounts without authorization after Ms. RS' departure. The Applicant only maintains that she did so for work purposes and meant no harm by it. Since the Applicant does not dispute the underlying

facts of the first charge, the Tribunal finds that these facts have been established to the required standard.

Treatment of vendor employees

28. Regarding the second charge, the Administration found that the Applicant made disrespectful and humiliating remarks to Ms. AP, Ms. RL and Ms. RS, shouted at them, repeatedly made personal requests that were not in their job descriptions, and grabbed Ms. AP by her arm during a conversation concerning a disagreement over her duties. The Administration's findings were based on the written complaints filed by Ms. AP, Ms. RL and Ms. RS, and on the interview records of several witnesses.

29. The Tribunal notes that OIAI interviewed several personnel of the MFO, who provided testimony regarding the Applicant's treatment of Ms. AP, Ms. RL and Ms. RS:

a. The then Chief of the MFO told OIAI during her interview that the Applicant had treated them as if they were her "personal servants". Once, she had received a voice message from Ms. RS, who had cried and said that she felt humiliated by the Applicant for her rude demands to serve her coffee. She also stated that Ms. RS and Ms. RL had come to see her and complained about the way the Applicant treated them. She stated that Ms. RL had returned and then said that the Applicant was treating her disrespectfully, yelling at her, humiliating her, and that she did not want to work for UNICEF anymore. Shortly thereafter, she received handwritten complaints from Ms. RS and Ms. RL;

b. A Field Assistant at the MFO told OIAI during his interview that many vendor employees were angry at the Applicant because of her treatment of them. Several times he had seen the Applicant asking vendor employees to do personal services for her. Ms. AP often complained to him that the Applicant would ask her to buy the Applicant breakfast or bring her water or coffee and then complained of the temperature of coffee or the quantity of sugar. Once he saw Ms. AP crying in the kitchen because of the Applicant. He also saw Ms.

RS crying and asked what happened and Ms. RS told him that the Applicant had been disrespectful;

c. An Education Officer at the MFO told OIAI during his interview that the Applicant treated Ms. RS and Ms. RL like “servants”. He recalled that once the Applicant called Ms. RS “lazy” after which Ms. RS started to cry;

d. A Youth & Adolescent Development Officer at the MFO told OIAI during her interview that Ms. AP had complained at the time of her departure that the Applicant spoke to her in a disrespectful manner. She thought that the Applicant’s demands to Ms. AP were “excessive”, but she did not personally witness the Applicant yelling or humiliating Ms. AP. She witnessed the Applicant asking Ms. RS or Ms. RL to bring water or coffee almost every day. Often, the Applicant also asked Ms. RS or Ms. RL to warm up her coffee if she was not happy with the temperature of the coffee that had been served to her. The Applicant also criticized Ms. RL on how some things were not clean and told her not to use a certain cleaning product, the smell of which she did not like.

30. With regard to the allegations raised by Ms. AP, the Administration made the following findings:

a. The Applicant verbally disrespected her;

b. The Applicant asked Ms. AP to cook for her and buy her breakfast, which was not within Ms. AP’s official duties;

c. On one occasion, the Applicant grabbed Ms. AP by the arm during a conversation over a disagreement concerning her duties and took her to the kitchen to continue conversation;

d. On another occasion, when Ms. AP did not agree to clean a table, the Applicant spoke to her loudly, took the cleaning cloth from her hands, and told her that the Applicant needed to teach her how to clean;

e. The Applicant yelled at Ms. AP in front of other colleagues, for which she apologized the following day.

31. In response to the allegations by Ms. AP, the Applicant admits that she had asked Ms. AP to buy her breakfast but states that she did so because she was not well enough to go out and buy food herself. She also acknowledges that she had asked Ms. AP to put some vegetables, which she had brought to work, in a bowl and put it in the microwave, but she claims that she never asked Ms. AP to cook for her as there was only a microwave in the office. The Applicant recalled drawing a finger over a surface and telling Ms. AP that it was dirty, but she denies having yelled at her. The Applicant admits that she was rude once and apologized for her behavior the next day, although she denies having yelled at Ms. AP. The Applicant also denies that she grabbed Ms. AP by the arm.

32. With regard to the allegations raised by Ms. RL, the Administration made the following findings:

- a. The Applicant made disrespectful and humiliating remarks at Ms. RL;
- b. On multiple occasions, the Applicant asked Ms. RL to buy her breakfast, water a garden near the office, and prepare salads, juice, tea and fruit for her, which was not within Ms. RL's official duties.

33. The Applicant admits that she had asked Ms. RL to buy her food on one occasion and may have done so in other occasions. She also admits that she had asked Ms. RL to help prepare lunch on occasion, which she would share with Ms. RL. With regard to watering the garden, she maintains that caring for the facilities was part of Ms. RL's contract.

34. With regard to the allegations raised by Ms. RS, the Administration made the following findings:

- a. The Applicant humiliated, mistreated and shouted at Ms. RS and made comments to Ms. RS that made her cry;

- b. The Applicant asked Ms. RS to purchase food for her;
- c. The Applicant asked vendor employees including Ms. RS to keep an eye on her water and refill it when it was empty and admonished them if they did not.

35. The Applicant denies that she humiliated, mistreated and shouted at Ms. RS. She also denies that she asked Ms. RS to purchase food for her. Regarding refilling water for her, she maintains that requests for water were commonplace in the office and other staff also made similar requests.

36. Based on the above-mentioned evidence, the Tribunal finds that the evidence establishes the following facts:

- a. The Applicant asked vendor employees to buy food for her and prepare salads and “green juice” for her, which were not within their official duties. The Applicant does not dispute this fact;
- b. The Applicant asked vendor employees to bring her water or coffee almost every day and occasionally returned the coffee telling them it was not hot enough. The Applicant does not dispute this fact. Other staff members considered this behaviour as the Applicant’s treating them as “personal servants” or making “excessive” demands to them;
- c. The Applicant publicly criticized vendor employees for their work. The Applicant admits that she drew a finger over a surface and told Ms. AP that it was dirty. The Youth & Adolescent Development Officer witnessed that the Applicant told Ms. RL that some things were not clean and also told her not to use a certain cleaning product as she did not like its smell. The Education Officer witnessed that the Applicant called Ms. RS “lazy” which made Ms. RS cry;
- d. The Applicant was disrespectful toward Ms. AP, Ms. RL and Ms. RS. This fact is corroborated by the Applicant’s own admission, as well as the testimonies of several witnesses. The Applicant herself admitted that she was

rude to Ms. AP once, for which she apologized the following day. The Education Officer witnessed that the Applicant's remarks made Ms. RS cry. The Field Assistant witnessed, on separate occasions, Ms. AP and Ms. RS crying because of the Applicant. The then Chief of MFO received several complaints from Ms. RS and Ms. RL that the Applicant was being disrespectful and humiliating to them. Ms. AP complained to the Youth & Adolescent Development Officer that the Applicant was disrespectful toward her;

e. The Applicant grabbed Ms. AP by the arm during a conversation concerning a disagreement over her duties. While the Applicant denies this allegation, Ms. AP's statement is corroborated by Ms. RS and as shown above, their statements were overall corroborated by other witnesses' testimonies and found to be truthful and credible. There is no evidence that questions the veracity of their statements with regards to this incident.

Whether the established facts legally amount to misconduct

Use of UNICEF's ICT resources

37. In the sanction letter, the Administration found that by using Ms. RS's computer and related ICT software without authorization, the Applicant failed to uphold the highest standards of integrity in violation of staff regulation 1.2(b), failed to use UNICEF's property only for official purposes in violation of staff regulation 1.2(q) and para. 25 of the Standards of Conduct for the International Civil Service, and circumvented the computing system/network controls in violation of para. 12.1 of UNICEF's Standard on Acceptable Use of ICT Resources (ICTD/STANDARD/2018/010).

38. Staff regulation 1.2(b) and (q) provides as follows:

(b) Staff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status;

...

(q) Staff members shall use the property and assets of the Organization only for official purposes and shall exercise reasonable care when utilizing such property and assets;

39. Paragraph 25 of the Standards of Conduct for the International Civil Service provides as follows:

25. International civil servants are responsible for safeguarding the resources of United Nations organizations which are to be used for the purpose of delivering an organization's mandate and to advance the best interests of the organization. International civil servants shall use the assets, property, information and other resources of their organizations for authorized purposes only and with care. Limited personal use of the resources of an organization, such as electronic and communications resources, may be permitted by the organization in accordance with applicable policies.

40. Paragraph 12.1 of ICTD/STANDARD/2018/010 provides as follows:

12. Circumvention of computing system and/or network security controls is strictly prohibited.

12.1. Only authorized individuals may access, modify, interconnect with and/or troubleshoot UNICEF's voice communication systems and/or other devices, which may be connected to or used in the support of the telecommunications environment.

41. The Applicant's conduct violated ICTD/STANDARD/2018/010 as she accessed ICT resources assigned to Ms. RS without authorization. Yet the Applicant claims that she accessed Ms. RS's account for work purposes only and did not do so with malicious intent and therefore this conduct does not amount to misconduct.

42. However, the relevant legal framework strictly prohibits unauthorized use of ICT resources of the Organization, and the Tribunal notes that it further provides the procedures for requesting exception/deviation from information security standards in para. 15 of ICTD/STANDARD/2018/010:

15. Exceptions to the requirements of this standard may exist and these shall be managed as such:

15.1. Any deviation from information security standards shall be documented by a Designated Authority and approved by Division Director, or where applicable Head of Office.

15.2. Exceptions shall be forwarded to the Chief of Platforms and Services where technical control adjustments may be made.

43. The Applicant's conduct further violates staff regulation 1.2(q) and the Standards of Conduct for the International Civil Service, which require staff members to use assets of the Organization only for official and authorized purposes, and it fell short of the standards of conduct required of her as an international civil servant in violation of staff regulation 1.2(b).

44. Therefore, the Tribunal concludes that the Applicant's conduct concerning her use of ICT resources without authorization amounts to misconduct.

Treatment of vendor employees

45. The Administration found that the Applicant's conduct toward Ms. AP, Ms. RL and Ms. RS, as described above, was unwelcome and could reasonably be perceived as causing offense or humiliating, thereby constituting harassment under sec. 1.1(b) of UNICEF's Executive Directive, CF/EXD/2012-007 on Prohibition of discrimination, harassment, sexual harassment and abuse of authority ("UNICEF's Executive Directive"). The Administration also found that using the Applicant's position of power vis-à-vis three women by making excessive demands and personal requests constituted abuse of authority.

46. The Administration further found that these actions breached staff rule 1.2(f), which prohibits any form of harassment and any abuse at the workplace. UNICEF's Executive Directive provides the definitions of harassment and abuse of authority as follows:

(b) Harassment is any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which tend to abuse, demean, intimidate, belittle, humiliate or embarrass another person or which create an intimidating, hostile or offensive work environment. It includes harassment based on any grounds, such as race, religion, color, creed, ethnic origin, physical attributes, gender or sexual orientation. Harassment normally involves a series of incidents.

...

(d) Abuse of authority is the improper use of a position of influence, power, or authority against another person. This is particularly serious when a person uses, or threatens to use, his/her influence, power, or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion. Abuse of authority may also include conduct that creates a hostile or offensive work environment, and such conduct can include (but is not limited to) the use of intimidation, threats, blackmail or coercion.

47. The Applicant repeatedly asked vendor employees to buy food and prepare food for her, which were not within their official duties. The Applicant claims that she never intended these requests as anything other than friendly favours, which therefore did not rise to the level of abuse of authority. However, as the Administration noted in the sanction letter, she was a staff member of the Organization and a supervisor of these vendor employees. Considering the authority that she had over the three women, the Tribunal finds that the Applicant's demands were inappropriate and that this improper use of her position of authority constitutes abuse of authority.

48. Further, the Applicant made disrespectful remarks towards three vendor employees that made them cry as evidenced by other testimonies. She also subjected them to public criticism, which made one of them cry in front of others. The Applicant also admitted that she was rude to one of them and apologized the following day. Before filing their complaints, three vendor employees complained to several colleagues in the office that they were disrespected and humiliated by the Applicant. Therefore, the Applicant's conduct toward three vendor employees over an extended period of time was unwelcome and could be reasonably perceived as causing offense or humiliation, thereby constituting harassment.

49. In light of these observations, the Tribunal finds that the Applicant's conduct amounts to misconduct in violation of UNICEF's Executive Directive and staff rule 1.2(f).

50. Accordingly, the Tribunal finds that the Administration did not exceed its scope of authority when determining that the Applicant's misuse of ICT resources and

harassment and abuse of authority in treatment of three vendor employees amounted to misconduct.

Whether the disciplinary measure applied was proportionate to the offence

51. The principle of proportionality in a disciplinary matter is set forth in the staff rule 10.3(b), which provides that “[a]ny disciplinary measure imposed on a staff member shall be proportionate to the nature and gravity of his or her misconduct”.

52. The Administration has discretion to impose the disciplinary measure that it considers adequate to the circumstances of a case and to the actions and behavior of the staff member involved, and the Tribunal should not interfere with administrative discretion unless “the sanction imposed appears to be blatantly illegal, arbitrary, adopted beyond the limits stated by the respective norms, excessive, abusive, discriminatory or absurd in its severity” (see *Portillo Moya* 2015-UNAT-523, paras. 19-21; and also *Sall* 2018-UNAT-889, *Nyawa* 2020-UNAT-1024).

53. The Appeals Tribunal held that “the Secretary-General also has the discretion to weigh aggravating and mitigating circumstances when deciding upon the appropriate sanction to impose” (see *Toukolon* 2014-UNAT-407, para. 31).

54. The Appeals Tribunal has further stated, “But due deference does not entail uncritical acquiescence. While the Dispute Tribunal must resist imposing its own preferences and should allow the Secretary-General a margin of appreciation, all administrative decisions are nonetheless required to be lawful, reasonable and procedurally fair”. The Appeals Tribunal further explains that this means that the Dispute Tribunal should “objectively assess the basis, purpose and effects of any relevant administrative decision” (see *Samandarov* 2018-UNAT-859, para. 24).

55. In the sanction letter, the Administration imposed on the Applicant the disciplinary measures of a written censure, with a loss of 10 steps in grade, and deferment, for three years, of eligibility for consideration for promotion. She also received the administrative measure of removal of any supervisory roles for a period of three years, during which time she would be required to enroll in appropriate training

with a view to correcting these shortcomings and acquiring the communication skills expected of UNICEF staff members. She was also required to re-take the UNICEF Information Security Awareness Course.

56. In the sanction letter, the Administration gave consideration to the nature of the Applicant's actions, the past practice of UNICEF in matters of comparable misconduct as well as aggravating and mitigating factors.

57. The Administration considered that the Applicant's violations of ICT security was serious in nature because "[m]aintaining the integrity of UNICEF's ICT systems is important to the security of all data that is processed by UNICEF". It considered the fact that the Applicant was the ICT focal point of the office as an aggravating factor since such responsibility "implies heightened responsibilities to ensure that all access to ICT systems was handled appropriately".

58. The Administration considered harassment and abuse of authority serious offenses that "contaminate the workplace, demoralize personnel, and damage the image and mission of UNICEF". It considered the fact that the Applicant supervised three vendor employees as an aggravating factor since in that capacity she was "expected to act as a role model, upholding the highest standards of conduct and promoting a harmonious work environment, free from harassment". It further considered in aggravation that the Applicant's conduct was "particularly abusive and demeaning, included a series of events, involved multiple victims, and was repeated over a number of years".

59. The Administration considered that the fact that the Applicant "committed multiple acts of unrelated misconduct, seriously calling into question [her] judgment and trustworthiness" was an aggravating factor.

60. As mitigating factors, the Administration considered "[the Applicant's] 22 years of service with UNICEF, the fact that [she has] a number of medical conditions, and [her] role as the sole breadwinner of [her] family, including [her] child who also suffers from medical conditions".

61. The Administration concluded that “[w]hile [her] conduct, viewed in its totality, does not preclude the continuation of the employment relationship, it nevertheless calls for a strong sanction”.

62. Further, the Administration decided to remove the Applicant from any supervisory roles for a period of three years “[g]iven the detailed and consistent allegations concerning [her] supervisory shortcomings” during which time she was encouraged to take appropriate training courses.

63. The Tribunal finds that the Administration acted within the bounds of its discretion in finding that the Applicant’s misconduct was serious in nature. She engaged in multiple conducts constituting harassment and abuse of authority over an extended period of time repeatedly toward three vendor employees under her supervision. Further, especially considering that the Applicant was the ICT focal point of the office, her unauthorized use of ICT resources of the Organization was also serious in nature.

64. The Tribunal further finds that the Administration acted within its discretion in considering several aggravating and mitigating factors. The Applicant claims that the Administration failed to consider the impact of the Applicant’s medical condition as part of the case and the sanction’s impact on her career considering that she is due to retire in three years, but the Tribunal notes that the Administration considered her medical conditions and the sanction’s impact on her livelihood.

65. Moreover, having reviewed the compendium of the practice of the Secretary-General in disciplinary matters, the Tribunal finds that the imposed sanction is in line with the past practice of the Organization in matters of comparable misconduct.

66. In particular, the Tribunal notes that, in previous instances, staff members, who committed non-sexual harassment and abuse of authority, were sanctioned with one or more of the following disciplinary measures: (i) written censure, (ii) loss of one or more steps in grade; (iii) fine; (iv) deferment, for a specified period, of eligibility for consideration for promotion; and (v) demotion with deferment, for a specified period, of eligibility for consideration for promotion.

67. The Tribunal also notes that when a staff member with managerial responsibilities or in a senior position engaged in repeated actions constituting harassment or abuse of authority towards several personnel over an extended period of time, the sanctions were more severe, ranging from loss of steps in grade to demotion.

68. For misuse of ICT resources, the Tribunal notes that a staff member was previously imposed the sanction of demotion for access of the electronic mailbox of another staff member without authorization. Another staff member was imposed the sanction of dismissal for unauthorized access to and improper use of official email accounts of other staff members.

69. In sum, considering the nature and gravity of the Applicant's misconduct, aggravating and mitigating circumstances that the Administration took into account, as well as the past practice of the Organization in matters of comparable misconduct, the Tribunal finds that the imposed disciplinary and administrative measures were adequate in light of the Administration's scope of discretion in this matter.

Whether the staff member's due process rights have been respected

70. The Applicant does not make any submission that her due process rights were not respected. The Tribunal notes that the Applicant was notified of the formal allegations in the charge letter, was given the opportunity to respond to those allegations, and was informed of the right to seek the assistance of counsel in her defence.

71. Therefore, the Tribunal is satisfied that the Applicant's due process rights were respected in this case.

72. In light of the above, the Tribunal upholds the disciplinary and administrative measures imposed on the Applicant.

Conclusion

73. In light of the foregoing, the Tribunal rejects the application.

(Signed)

Judge Joelle Adda

Dated this 2nd day of December 2021

Entered in the Register on this 2nd day of December 2021

(Signed)

Nerea Suero Fontecha, Registrar, New York