



Before: Judge Goolam Meeran

Registry: New York

Registrar: Nerea Suero Fontecha

KAMALI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

ON WITHDRAWAL

Counsel for Applicant:

Daniel Trup, OSLA

Natalie Puchalka, OSLA

Counsel for Respondent:

Elizabeth Gall, ALD/OHR, UN Secretariat

Notice: This Judgment has been corrected in accordance with art. 31 of the Rules of Procedure of the United Nations Dispute Tribunal.

Introduction

1. On 21 June 2017, the Applicant, a Legal Officer at the P-4 level, step 10, in the Office of Legal Affairs, filed an application in which she described the contested decision as the decision of the Administration to reduce her contracted salary and the manner in which that decision was implemented. As remedy, the Applicant requested that the decision be rescinded, and that she should receive outstanding backdated pay. The Applicant also requested an expedited hearing.

2. On 24 July 2017, the Respondent filed the reply submitting that the application was not receivable and that, in any event, the impugned decision was lawful.

3. Following several case management orders, the case was reassigned to the undersigned Judge on 1 April 2019.

4. By Order No. 57 (NY/2019) dated 2 April 2019, the Tribunal issued an order in this and other cases raising the same or similar factual and legal issues:

... **On or before Tuesday, 9 April 2019**, the Applicants and each of them are to respond to the following questions:

a. Is it accepted that, in his responses to Orders No. 133-136 (NY/2018) and 25 (NY/2019), the Respondent has correctly characterised the nature of the claims and, if so, are his submissions accepted or challenged, that the claims “are identical to the arguments already considered and rejected by the Appeals Tribunal in *Lloret Alcañiz et al.* [2018-UNAT-840] and *Quijano-Evans et al.* [2018-UNAT-841]”;

b. If the answer to question “a” is in the affirmative, do each of the Applicants seek to distinguish their case from the rulings of the Appeals Tribunal and, if so, to state the grounds in a submission not exceeding five pages.

c. If the Applicants and each of them accept that the Dispute Tribunal is bound by the Judgments of the Appeals Tribunal to state if they wish to withdraw their claim and, if

not, to state what other consideration and/or disposal they are seeking.

5. On 9 April 2019, the Applicant filed her submission in response to Order No. 57 (NY/2019) indicating, “separate from Counsel”, that (a) her claim was not identical to the arguments considered by the Appeals Tribunal in *Lloret Alcaniz et al.*, 2018-UNAT-840, *Quijano-Evans et al.*, 2018-UNAT-841 and *Mirella et al.*, 2018-UNAT-842; (b) her case was distinguishable from the said Judgments; and, (c) she did not wish to withdraw her claim.

6. By Order No. 65 (NY/2019) dated 10 April 2019, the Tribunal instructed the Respondent to file a response to the Applicant’s submission by 18 April 2019.

7. By Order No. 70 (NY/2019) dated 26 April 2019, the Tribunal ordered Counsel for the Applicant, on or before 3 May 2019, to clarify the reference at para. 2 of the submission dated 9 April 2019, “The Applicant, separate from Counsel, responds to the Tribunal’s questions below”, and in particular to state whether they adopt, support or otherwise distance themselves from the Applicant’s response and/or whether they remain as counsel on the record. The Applicant was further given leave, on or before 6 May 2019, to further develop her argument that the rulings of the Appeals Tribunal in *Lloret-Alcaniz et al.* 2018-UNAT-840, *Quijano-Evans et al.* 2018-UNAT-841 and *Mirella et al.* 2018-UNAT-842 are not to be accepted as binding authority as submitted by the Respondent’s response, dated 18 April 2019 to Order No. 65 (NY/2019).

8. On 3 May 2019, the Applicant filed a notice of withdrawal of claim UNDT/NY/2017/058.

Judgment

9. There being no matter for judicial consideration and determination in this case, it is ordered that Case No. UNDT/NY/2017/058 be closed.

(Signed)

Judge Goolam Meeran

Dated this 6th day of May 2019

Entered in the Register on this 6th day of May 2019

(Signed)

Nerea Suero Fontecha, Registrar, New York