



Before: Judge Alexander W. Hunter, Jr.

Registry: Nairobi

Registrar: Abena Kwakye-Berko

NJENGA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON WITHDRAWAL

Counsel for the Applicant:

Brandon Gardner, OSLA

Counsel for the Respondent:

Isabel Martinez, UNEP

Camila Fuomene A. Nkwenti, UNEP

Introduction

1. On 11 August 2017, the Applicant, a former Programme Assistant with the United Nations Environment Programme (UNEP), filed an application in which she described the contested decision as “the decision of the Administration not to compensate her for mistakenly forcing her to retire at 60 instead of 62.” The Applicant contended that this mistake affected the calculation of her pension entitlements.

2. The Respondent filed his Reply to the application on 13 September 2017, arguing that the application should be dismissed both on receivability and substantive grounds.

3. The case was re-assigned to the undersigned Judge on 3 September 2018. On the same day, the Tribunal sought the Applicant’s submissions in response to the Respondent’s arguments on receivability. The Applicant filed these submissions on 5 September 2018.

4. By Order No. 149 (NBI/2018) dated 25 September 2018, the Tribunal directed the parties to jointly advise it of the likelihood of the matter being settled informally or of the need for a formal referral for mediation.

5. On 12 October 2018, the parties jointly requested a formal referral to mediation.

6. On 15 October 2018, the Tribunal issued Order No. 162 (NBI/2018) referring the matter to the Office of the Ombudsman and Mediation Services (OMS) for mediation, and suspending proceedings until 15 November 2018 to allow the parties to attempt to have the matter settled without recourse to litigation.

7. On 8 November 2018, 13 February 2019 and 29 March 2019, the OMS informed the Tribunal that the parties were engaged in good faith efforts to find a mutually agreeable solution to the dispute and requested further suspension of

proceedings. Consequently, the Tribunal suspended proceedings until 15 February 2019¹, 1 April 2019² and 1 May 2019³.

8. On 2 May 2019, the OMS informed the Tribunal that the parties had reached an agreement in mediation and on the same day, the Applicant filed a request for withdrawal of proceedings.

9. On 3 May 2019, the OMS informed the Tribunal that the parties had fully executed the Mediation Settlement Agreement.

10. The Tribunal commends the parties and the OMS for making best efforts to settle the matter amicably through mediation.

Judgment

11. There being no matter for judicial consideration and determination in this case, it is ordered that Case No. UNDT/NBI/2017/067 be closed.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 7th day of May 2019

Entered in the Register on this 7th day of May 2019

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi

¹ Order No. 179 (NBI/2018).

² Order No. 021 (NBI/2019).

³ Order No. 043 (NBI/2019).