



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

KOOSHAK

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

UNDP

Introduction

1. On 19 October 2020, the Applicant, a former staff member of the United Nations Development Programme (“UNDP”), filed a motion requesting an extension of time to file an application of at least four months and, preferably, of at least six months.
2. By Order No. 108 (GVA/2020) dated 23 October 2020, the Tribunal granted the Applicant an extension of time to file an application up to 18 January 2021.
3. On 30 November 2020, the Applicant filed a second motion for extension of time to file his application requesting “at least [six] additional calendar months for medical reasons”. He further alleged that this additional time might permit the Secretary-General to rule on his claim for compensation under Appendix D to Staff Rules, namely the “Rules Governing Compensation in the event of Death, Injury or Illness Attributable to the Performance of Official Duties on behalf of the United Nations” (“Appendix D”).
4. By Order No. 124 (GVA/2020) of 3 December 2020, the Tribunal granted the Applicant an extension of time to file his application by 19 April 2021 while making it clear that no further extension would be granted thereafter.
5. Having received no submission from the Applicant, the Tribunal on 23 April 2021 requested the Applicant to file his complete application by 30 April 2021 and to provide a justification as to why he was unable to meet the deadline set forth in Order No. 124 (GVA/2020), while at the same time cautioning him that failure to do so may result in the dismissal of his case for want of prosecution.
6. On 23 April 2021, the Applicant informed the Tribunal of the medical reasons for his failing to file his application within the prescribed deadline and, accordingly, requested a further six-month extension of the deadline for filing his application to give the Administration time to finalize his Appendix D claim. He further stated that:

the objective of my requesting this extension is solely to protect my staff rights should the administration not finalize my claim [under Appendix D].

Consideration

7. As a preliminary matter, having regard to the circumstances of the case, the Tribunal decides to reject the Applicant's request dated 23 April 2021 for a further extension of time to file his application.

8. The Tribunal has on several occasions pronounced itself on the principle of procedural law that the right to institute and pursue legal proceedings is predicated upon the condition that the person exercising this right has a legitimate interest in initiating and maintaining legal action, and that access to the Tribunal has to be denied to those who are no longer in need of judicial remedy, or no longer interested in the proceedings (see, e.g., *Bimo and Bimo* UNDT/2009/061; *Saab-Mekkour* UNDT/2010/047; *Zhang-Osmancevic* UNDT/2015/034; *Mukeba Wa Mukeba* UNDT/2020/103).

9. The former applies in the present case, as the Applicant has made it clear in his email dated 23 April 2021 that the objective of his filings is solely to protect his staff rights should the Administration fail to finalize his claim under Appendix D. The Tribunal does not see the need to maintain current legal proceedings considering that the Applicant has the right to file an independent application contesting an administrative decision regarding his Appendix D claim under art. 2.1(a) of the Tribunal's Statute.

10. Indeed, under art. 2.1(a), any staff member or former staff member of the United Nations may file an application to appeal any administrative decision that is alleged to be in non-compliance with pertinent regulations and rules including Appendix D. This has been confirmed, *inter alia*, by *Massi* UNDT/2016/100 in which the Tribunal dealt with an application filed on 13 July 2015 by a former staff member of the United Nations challenging the final settlement of the compensation under Appendix D. The Tribunal thus finds that judicial remedy is not warranted, at this stage, in the present case.

11. Moreover, as of the date of this Judgment, the Applicant has not filed his application pursuant to the Tribunal's Order No. 124 (GVA/2020) or its direction of 23 April 2021, despite being warned that his case would be dismissed for want of prosecution should he fail to submit his application as instructed by the Tribunal.

12. Accordingly, this matter stands to be dismissed for want of prosecution.

13. The Tribunal notes that there are no specific provisions in the Tribunal's Statute or Rules of Procedure governing want of prosecution. However, art. 36 of the Tribunal's Rules of Procedure provides that all matters that are not expressly provided for in the Rules shall be dealt with by decision of the Tribunal on the particular case, by virtue of the powers conferred on it by art. 7 of its Statute.

14. Further, art. 9 of the Tribunal's Rules of Procedure allows it to determine, on its own initiative, that summary judgment is appropriate.

Conclusion

15. In view of the foregoing, the Tribunal **DECIDES** to dismiss the Applicant's case for want of prosecution.

16. Noting that the Applicant's case arose in 2015, the Tribunal, however, urges the Administration to bring the determination of his Appendix D claim to a close at the earliest time possible.

(Signed)

Judge Teresa Bravo

Dated this 30th day of April 2021

Entered in the Register on this 30th day of April 2021

(Signed)

René M. Vargas M., Registrar, Geneva