



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

RIXEN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Christopher Bollen, Byrne-Sutton Bollen Kern

Counsel for Respondent:

Daniel Trup, WMO

Introduction

1. The Applicant joined the World Meteorological Organization (“WMO”) Secretariat in August 2011 to work for the World Climate Research Program (“WCRP”), as a P-5 Senior Scientific Officer under a two-year fixed-term appointment (“FTA”). The Applicant’s FTA was renewed several times and the latest expired on 31 August 2021.
2. On 8 June 2020, the Head of Human Resources, WMO, informed the Applicant that, in the framework of the WMO restructuring exercise, his post was going to be abolished effective 30 September 2020.
3. On 3 September 2020, the Secretary-General approved a postponement of the Applicant’s separation until 31 December 2020. On 24 November 2020, another postponement was agreed until 31 March 2021, and, lastly, on 4 February 2021, the separation was deferred until 31 May 2021.
4. On 22 March 2021, the Head, WCRP Secretariat, announced via email that a new P-3 staff member would be entering into duty on 23 May 2021, and that the Applicant would end his service on 31 May 2021.
5. On 24 March 2021, the Applicant informed WMO that he was not interested in any further postponement of his separation. Accordingly, he pointed out that he expected his separation date to be effective on and associated formalities to be calculated at 31 May 2021, as previously agreed.
6. On 25 March 2021, the Head of Human Resources, WMO, informed the Applicant that the decision to terminate his contract had been rescinded and that his FTA would run until its original expiration date, i.e., 31 August 2021. This is the “contested decision”.
7. On 14 April 2021, the Applicant requested administrative review of the contested decision.

8. On 29 July 2021, the Applicant filed the current application contesting the decision to not terminate his appointment at the agreed date but rather to extend it until the end of his FTA, resulting in him not qualifying for termination indemnity.

9. On 11 August 2021, the Respondent filed his reply.

10. On 19 August 2021, the Applicant filed a motion requesting leave to file comments on the Respondent's reply and to produce further evidence.

11. By Order No. 91 (GVA/2022) of 18 October 2022, the Tribunal invited the parties to a Case Management Discussion ("CMD") on 2 November 2022. In the same Order, the Tribunal granted the Applicant's motion for leave to file comments on the reply and instructed the Respondent to provide the unredacted version of annex J on an *ex parte* basis so it could rule on whether it should be disclosed to the Applicant or not.

12. On 19 October 2022, the Respondent filed *ex parte* the unredacted version of annex J and his comments in this respect.

13. By Order No. 94 (GVA/2022) of 21 October 2022, the Tribunal lifted the *ex parte* status of the Respondent's annex J.

14. On 2 November 2022, the parties attended a CMD.

Consideration

15. During the CMD, the Tribunal encouraged the parties to consider the possibility of mediation. The Applicant stated that he is open to engage in it. The Respondent, however, informed he was not authorized to enter into mediation for the time being.

16. Furthermore, the parties agreed that a hearing on the merits is not needed and that the matter can be determined based on the written submissions.

17. As a result, the Tribunal instructed the parties to file closing submissions further elaborating therein the factual and legal issues of the case, and addressing in particular the main points of concern raised by the Tribunal during the CMD.

18. Accordingly, in the respective closing submission the Tribunal instructs:

- a. The Applicant to:
 - i. Elaborate on the issue of receivability *ratione materiae*; and
 - ii. Provide his comments to the Respondent's reply, as per motion dated 19 August 2021 granted by the Tribunal in Order No. 91 (GVA/2022) of 18 October 2022.
- b. The Respondent to:
 - i. Discuss the limits to managerial discretion;
 - ii. Inform whether the Organization complied with its duty of care;
 - iii. Discuss whether the Organization has created legitimate expectations *vis-à-vis* the termination of the Applicant's contract; and
 - iv. Identify and explain the rationale underlying the decision to rescind the Applicant's termination and present the respective evidence, if any.

Conclusion

19. In view of the foregoing, it is ORDERED THAT the parties file closing submissions by **Friday, 18 November 2022**.

(Signed)

Judge Teresa Bravo

Dated this 3rd day of November 2022

Entered in the Register on this 3rd day of November 2022

(Signed)

René M. Vargas M., Registrar, Geneva