



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2010/057
Order No.: 016 (NBI/2011)
Date: 18 February 2011
Original: English

Before: Judge Vinod Boolell

Registry: Nairobi

Registrar: Jean-Pelé Fomété

OBINO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE RESPONDENT'S
MOTION FOR CHANGE OF VENUE FOR
PURPOSES OF JOINDER**

Counsel for applicant:

Miles Hastie, OSLA

Counsel for respondent:

Alan Gutman, ALS/OHRM

Christine Graham, ALS/OHRM

Introduction

1. On 16 June 2010, the Applicant in the present case and Applicant Kodre¹ filed applications with the United Nations Dispute Tribunal (“UNDT”) in Nairobi contesting the decision of the Secretary-General to implement a decision by the International Civil Service Commission (“ICSC”) to reclassify the Addis Ababa and Nairobi duty stations from category C to B.

2. On 18 June 2010, the Respondent filed a motion to change venue pursuant to article 4.9 of the Statute of the UNDT and articles 19 and 28.2 of the Rules of Procedure of the UNDT. The Respondent’s contention was that a conflict of interest existed for judges serving at the Nairobi duty station as they fall within the category of individuals who would be directly affected by the outcome of the cause of action filed by the Applicant.

3. By Order No. 075, dated 28 September 2010, the President of the UNDT rejected the Respondent’s motion to change venue.

4. On 17 February 2011, the Respondent in the present case filed a motion for a change of venue for purposes of joinder pursuant to articles 6.2 and 19 of the Rules of Procedure of the UNDT. The Respondent requested the transfer of this case from UNDT Nairobi to UNDT New York for the purpose of joinder with the case of *Kodre v. Secretary-General of the United Nations*², in the interests of judicial economy, prevention of duplication of evidence, ensuring consistency in judgments and saving of costs and time. The Respondent also filed a motion for joinder in the case of *Kodre v. Secretary-General of the United Nations*, which is before a three-judge panel at UNDT New York, pursuant to articles 11 and 19 of the Rules of Procedure of the UNDT.

¹ This matter was recorded as Case No. UNDT/NBI/2010/056. Upon the Respondent’s request, the matter was transferred to the Dispute Tribunal in New York as it related to the Nairobi duty station. This matter was subsequently referred to a panel of three judges in New York for a decision.

² Case No. UNDT/NY/2010/084.

Considerations

5. The Tribunal has taken note of the grounds advanced by the Respondent in his motion but considers that the view expressed by the President of UNDT in Order No. 075 sums up the view, very eloquently, of UNDT Nairobi on this matter:

“It is true that the present case is related to Case No. UNDT/NBI/2010/056. Both cases deal with the reclassification of a duty station. This does not mean that they are identical. Indeed, the difference between the two cases is crucial. Whereas the case at hand is about the reclassification of Addis Ababa, UNDT/NBI/2010/056 deals explicitly and exclusively with the reclassification of Nairobi.”

6. In light of the foregoing, the Respondent’s motion for change of venue for purposes of joinder is rejected.

(Signed)

Judge Vinod Boolell

Dated this 18th day of February 2011

Entered in the Register on this 18th day of February 2011

(Signed)

Jean-Pelé Fomété, Registrar, UNDT, Nairobi