



Before: Judge Coral Shaw
Registry: Nairobi
Registrar: Abena Kwakye-Berko, Acting Registrar

VOLKNER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON WITHDRAWAL OF
APPLICATION**

Counsel for the Applicant:
Peter Goddard

Counsel for the Respondent:
Steven Dietrich, ALS/OHRM, UN Secretariat
Bérengère Neyroud, ALS/OHRM, UN Secretariat

Introduction

1. The Applicant is a former staff member of the United Nations Mission in Southern Sudan (“UNMISS”) where she worked as a Senior Political Affairs Officer at the P-5 level. She contests the decision of UNMISS to require her to undergo a competitive selection process for the post she had encumbered. She further submits that the decision to advertise her post was prejudiced, arbitrary and based on abuse of authority and improper motives.

2. The Respondent acknowledges that the Applicant should not have been subjected to a competitive selection process for the post she had encumbered and that the decision was unlawful.

3. The sole matter for determination is whether the Applicant is entitled to compensation and if so in what amount. The Applicant seeks 2 years’ salary, termination indemnity and payment of the prorated amount of her assignment grant. The Respondent submits that the Applicant resigned and is therefore not entitled to indemnity, the refund of the prorated amount of her assignment grant, and compensation. In any event he submits that two years compensation is excessive.

Background

4. On 15 November 2012 the Tribunal issued Order No. 149 (NBI/2012) proposing to the Parties that the case be referred to the Mediation Division in the Office of the United Nations Ombudsman and Mediation Services (“Mediation Division”). On 6 December 2012 both the Respondent and Applicant confirmed by joint memorandum that they consent to mediation.

5. Accordingly the Tribunal issued Order No. 157 (NBI/2012) on 7 December 2012 suspending the proceedings for a period of thirty days up to 7 January 2013 for mediation by the Mediation Division.

6. By email on 7th January 2013, the Mediation Division requested a two month extension of time for the mediation to move forward.

7. On 6 March 2013, the Mediation Division informed the Tribunal that while mediation had been initiated, the negotiations would not be completed by Friday 8 March 2013 as scheduled in Order No. 005 (NBI/2013) dated 8 January 2013. The Mediation Division, in agreement with the Parties, therefore requested the Tribunal for a further one month extension to allow the necessary process to be completed.

8. On 8 March 2013, the Tribunal issued Order No. 058 (NBI/2013) granting the request and further suspending the proceedings until 8 April. On 6 April, the Mediation Division further requested a two week extension to finalize, which was granted until 18 April 2013.

9. On 13 May 2013, the Mediation Division informed the Tribunal formally of the successful completion of the mediation process.

10. On 21 May 2013, the Applicant notified the Tribunal that as a result of the agreement reached between the Applicant and the Respondent under the auspices of the Ombudsman and Mediation services, the Applicant wishes to withdraw his Application in its entirety.

IT IS HEREBY ORDERED THAT:

11. In light of the above, there is no longer any matter for adjudication by the Dispute Tribunal.

12. The matter of *Volkner v. the Secretary-General of the United Nations*, registered in the Registry records as case number UNDT/NBI/2012/050 be struck off the record.

(Signed)

Judge Coral Shaw

Dated this 22nd day of May 2013

Entered in the Register on this 22nd day of May 2013

(Signed)

Abena Kwakye-Berko, Acting Registrar, Nairobi