



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2012/020

Order No.: 168 (NBI/2013)

Date: 31 July 2013

Original: English

Before: Judge Coral Shaw

Registry: Nairobi

Registrar: Abena Kwakye-Berko, Acting Registrar

OSORO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON WITHDRAWAL OF
APPLICATION**

Counsel for the Applicant:
Alexandre Tavadian, OSLA

Counsel for the Respondent:
Kong Leong Toh, UNOPS

Introduction

1. The Applicant challenged an administrative decision by the United Nations Office for Project Services (“UNOPS”) which he described in his application as follows:

The decision made by UNOPS that he should claim a withdrawal settlement as per Article 31 of the UNJSPF instead of a minimum 5 years full Pension entitlement as per Article 29 of the Fund, citing that UNOPS cannot retroactively adjust his contract duration by one day.

2. At a case management hearing held on 11 October 2012, the Tribunal proposed to the parties that the case be referred to mediation.

3. On 12 October 2012, the parties confirmed by joint memorandum that they consent to mediation.

Background

4. Accordingly the Tribunal issued Order No. 131 (NBI/2012) on 12 October 2012 suspending the proceedings for a period of thirty days up to 12 November 2012 for mediation by the Mediation Division in the Office of the United Nations Ombudsman and Mediation Services.

5. By letter dated 8 November 2012, the Mediation Division in the Office of the United Nations Ombudsman and Mediation Services requested a two-month extension of time for the completion of the mediation. The Tribunal granted the request by issuing Order No. 143 (NBI/2012) on 12 November 2012.

6. By email dated 11 January 2013, the Ombudsman wrote to the Registry requesting one week extension of time so as to finalize the settlement agreement between the parties.

7. The Tribunal issued Order No. 008 (NBI/2013) on 14 January 2013 granting the request for extension of time and suspending the proceedings for 14 days up to 28 January 2013.

8. On 29 January 2013, the Parties filed a motion for stay of proceedings informing the Tribunal that they had reached a settlement agreement. The Parties however requested for the proceedings to be stayed for 90 days rather than withdrawn to allow for the implementation of the agreement.

9. On 8 February 2013, the Tribunal issued Order No. 031 (NBI/2013) ordering that the proceedings in the instant case are stayed pending implementation of the settlement agreement reached between the Parties for a period of ninety (90) days up to Thursday 9 May 2013 on the condition that interim progress reports were filed monthly.

10. The Parties filed monthly interim progress reports on 11 March 2013, 9 April 2013 and 9 May 2013 as per Order No. 031 (NBI/2013).

11. On 12 April 2013, the Tribunal issued Order No. 079 (NBI/2013) suspending the proceedings for a final time up to 30 May 2013. The Parties were also directed to provide the Tribunal with a brief interim progress report that details the advances that have been made for the implementation of the agreement by Thursday, 9 May 2013.

12. On 1 June 2013, the Respondent filed on behalf of the Parties, the fourth and final interim progress report stating that the Applicant had received formal confirmation from the third party that would enable the Applicant to qualify for the said pension benefits.

13. On 29 July 2013, the Applicant filed a Motion to discontinue the Applicant on the merits stating that the Applicant was advised that as a result of the informal process, his pension benefits were reinstated. As a result, the Applicant informed the Tribunal that he was wholly discontinuing his Application on the merits requesting that it be removed from the Tribunal's docket.

IT IS HEREBY ORDERED THAT:

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

15. The matter of *Osoro v. the Secretary-General of the United Nations*, registered in the Registry records as case number UNDT/NBI/2012/020 be struck off the record.

(Signed)

Judge Coral Shaw

Dated this 31st day of July 2013

Entered in the Register on this 31st day of July 2013

(Signed)

Abena Kwakye-Berko, Acting Registrar, Nairobi