



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2012/023
Order No.: 260 (NBI/ 2013)
Date: 6 December 2013
Original: English

Before: Judge Vinod Boolell
Registry: Nairobi
Registrar: Abena Kwakye-Berko, Acting Registrar

KASHALA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

DIRECTIONS ORDER

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Sophie Parent, ALS/OHRM
Susan Maddox, ALS/OHRM

Introduction and Procedural History

1. The Applicant is a former staff member of the former United Nations Organization Mission in the Democratic Republic of Congo (MONUC). He occupied the position of Clerk at the GL-2 level.

2. On 17 April 2012, he filed an Application before the United Nations Dispute Tribunal (UNDT) challenging the decision, taken on 27 May 2008, but acknowledged on 12 June 2008, to summarily dismiss him for serious misconduct for having improperly solicited and received monies from local citizens in exchange for their initial recruitment.

3. The Applicant sent a letter to the Office of Human Resources Management (OHRM) dated 14 June 2008 to contest the decision. This letter was received by OHRM on 8 July 2008. On 11 July 2008, OHRM sent a memorandum to the Joint Disciplinary Committee (JDC) transferring to the Applicant's letter. The same day, OHRM informed the Applicant that his case had been forwarded to the JDC, which would contact him.

4. On 1 July 2009, the JDC was abolished (General Assembly resolution 63/253) and, according to section 3.2 of ST/SGB/2009/11 (Transitional measures related to the introduction of the new system of administration of justice), the pending cases before the JDC were transferred directly to the UNDT.

5. Regarding the transfer of the pending cases from JDC to the UNDT, the Tribunal notes that the file of the Applicant should have been transferred as well. There is however no evidence in the records and correspondence that this was done. The assumption is that the case is still pending and would be under the jurisdiction of the new system of administration of justice.

6. The present case involves a disciplinary matter and the Applicant is self-represented. Additionally, there is the complex issue of whether the UNDT can assume jurisdiction in a matter that appears to never have been transferred to it under the transitional measures of the new system. These may both be problematic in the long term for the Applicant, who is not a lawyer, to defend. Therefore, the Tribunal takes the view that the services of counsel will assist the Applicant and the Tribunal in the management and conduct of this case.

DIRECTIONS

7. The Applicant is advised to seek legal counsel for the conduct of his case. To this end, he can choose a lawyer from the Office of Staff Legal Assistance (OSLA) on the following website <http://www.un.org/en/oaj/legalassist/howto.shtml> or a lawyer of his own choice.

8. The Tribunal also **DIRECTS** service of the present Order on OSLA to facilitate the process.

9. The Applicant is directed to provide the Tribunal with his Counsel's details by **17 December 2013**.

(Signed)

Judge Vinod Boolell

Dated this 6th day of December 2013

Entered in the Register on this 6th day of December 2013

(Signed)

Abena Kwakye-Berko, Acting Registrar, Nairobi