



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

KASHALA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

Counsel for the Applicant:

Alexandre Tavadian, OSLA

Counsel for the Respondent:

Susan Maddox, ALS/OHRM

Adrien Meubus, 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 to summarily dismiss him for serious misconduct.
3. The Respondent filed a Reply on receivability on 15 May 2012 and a Reply on the merits on 21 May 2012.
4. The Tribunal decided in Judgment No. UNDT/2014/023¹ that the Application is receivable.
5. On 26 January 2015, the Applicant filed a Motion to exclude inadmissible evidence pursuant to articles 18.1, 18.5 and 19 of the UNDT Rules of Procedure. The Respondent was granted until 11 February 2015 to provide his comments, if any, on the Applicant's Motion.
6. On 8 February 2015, the Respondent filed a Motion for extension of time to 11 March 2015 to file comments or observations on the Applicant's Motion to exclude inadmissible evidence. The Respondent subsequently filed an amended Motion for extension of time on 9 February 2015, which was granted by Order No. 050 (NBI/2015) dated 10 February 2015.
7. The Respondent filed his comments and observations on the Applicant's Motion on 6 March 2015.

¹ Rendered on 28 February 2014.

Considerations

8. Pursuant to art. 18.1 of its Rules of Procedure, the Tribunal determines the admissibility of evidence.

9. The Tribunal has taken cognizance of the Motion filed by the Applicant on 26 January 2015 and has decided that it will rule on the Motion during the hearing of this matter on the merits if and/or when the Respondent seeks to introduce into the record the evidence sought to be excluded by the Applicant.

10. Further, pursuant to art. 16.2 of the UNDT Rules of Procedure, a hearing shall normally be held following an appeal against an administrative decision imposing a disciplinary measure. In light of the fact that the Applicant was summarily dismissed from service for alleged serious misconduct, the Tribunal deems it necessary to hold a hearing in this matter.

It is hereby **ORDERED** that:

11. The Applicant and his Counsel are to inform the Registry **on or before 8 May 2015** of their availability to attend a hearing on the merits during the week of 15 – 19 June 2015.

12. The Parties are to file the following via the Court Case Management System (CCMS) **on or before 15 May 2015**:

- a. Their lists of the witnesses they intend to call to give evidence during the hearing;
- b. A synopsis of the evidence that each witness will be providing; and
- c. Any supplementary documents, in addition to that already filed, with a brief note explaining the relevance of this evidence for the Tribunal's consideration.

Case No. UNDT/NBI/2012/023

Order No.: 138 (NBI/2015)

(Signed)

Judge Vinod Boolell

Dated this 29th day of April 2015

Entered in the Register on this 29th day of April 2015

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi