



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2014/019
Order No.: 153 (NBI/2015)
Date: 11 May 2015
Original: English

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

TOSI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S MOTION
TO WITHDRAW THE APPLICATION**

Counsel for the Applicant:
Self- Represented

Counsel for the Respondent:
Steven Dietrich, ALS/OHRM
Nicole Wynn, ALS/OHRM

The Application and Procedural History

1. The Applicant is a Legal Officer at the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo (MONUSCO). He serves on a fixed-term appointment at the P-4 level in Kinshasa.

2. On 17 March 2014, the Applicant filed an Application with the United Nations Dispute Tribunal (the Tribunal) in Nairobi challenging his performance appraisal for the period 2011-12.

3. As the Application was not within the set page limit and the annexes were not in order at the time of filing, the Registry advised the Applicant as much and asked that he comply with the established filing guidelines by 24 March 2014.

4. The Applicant filed a corrected Application with the supporting annexes on 24 March 2014.

5. The Respondent filed his Reply to the Application on 28 April 2014, challenging the Application as being both materially and time barred.

6. On 30 April 2014, the Applicant filed a motion for leave to respond to the Respondent's Reply.

7. The Tribunal issued Order No. 088 (NBI/2014) on the same day granting the Applicant's motion.

8. The Applicant filed his submissions in response to the Respondent's Reply on 14 May 2014.

9. On 25 July 2014, the Tribunal issued Order No. 189 (NBI/2014). The Tribunal's Order, in relevant part, stated:

In the interest of efficient use of the Tribunal's resources and the expeditious conduct of proceedings, the Tribunal pursuant to articles 10.3 of its Statute and 15.1 of the Rules of Procedure, strongly urges the Parties in this matter to consult and deliberate on having this matter informally resolved or mediated.

The Tribunal also takes the view that the services of counsel will assist the Applicant and the Tribunal in the management and conduct of this case, particularly in the process of informal dispute resolution.

10. On 5 September 2014, the Parties jointly advised the Tribunal that they are seeking to resolve the dispute through mediation conducted by the Office of the Ombudsman. To that end, the Parties requested that the proceedings be suspended for 30 days.

11. On 8 September 2014, the Tribunal issued Order No. 205 (NBI/2014) suspending the proceedings in this matter. The Tribunal also directed the Mediation Division to report on the status of the mediation process by 17 October 2014.

12. On 28 October 2014, the Tribunal received a letter from the Director of Mediation apologising for the delay in providing the Tribunal with a status report. The Director applied, on behalf of both Parties, for the suspension of proceedings to be extended through to mid-December.

13. On 22 December 2014, the Director of the Mediation Division informed the Tribunal that the parties were still in the process of exploring a mediated settlement and moved for a further suspension of proceedings until 31 January 2015.

14. On 24 December 2014, by way of Order No. 276 (NBI/2014), the Tribunal allowed the motion so that the Parties were given the additional time requested.

15. On 7 May 2015, the Office of the Ombudsman and Mediation Services informed the Tribunal that the matter has been settled in mediation.

16. The Applicant filed a motion to withdraw his Application on 8 May 2015.

Order

17. The Tribunal commends and congratulates the Parties and the Mediator for their efforts in having this matter resolved without recourse to litigation.

18. The Tribunal hereby **ORDERS** that the matter of *Tosi v Secretary General of the United Nations* (UNDT/NBI/2014/019) be struck off the Court's docket.

(Signed)

Judge Vinod Boolell

Dated this 11th day of May 2015

Entered in the Register on this 11th day of May 2015

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi