



Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

AHAMED

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER STRIKING OUT THE
APPLICATION**

Counsel for the Applicant:

Abdalla Alfadni

Counsel for the Respondent:

Kevin Browning, ALS/OHRM

Susan Maddox, ALS/OHRM

Introduction

1. The Applicant served as a Movement Control Assistant at the United Nations Mission in the Republic of South Sudan (“UNMISS”). By letter dated 24 September 2014, he was separated from service with compensation in lieu of notice and without termination indemnity for serious misconduct. By Application filed on his behalf by one Abdalla Alfadni, of Counsel, dated 26 November 2014 he challenged the decision to separate him from service.
2. The Respondent filed a Reply to the Application on 30 December 2014.
3. Vide Order No. 108 (NBI/2015), duly served on both Parties, the said Parties were required to attend a case management discussion for purposes of a fair and expeditious disposal of the case. Neither the Applicant nor his Counsel attended the case management discussion. No explanations were offered at that time or thereafter for their failure to put in a representation at the case management discussion.
4. On 20 April 2015, the Tribunal issued Order No. 121 (NBI/2015), scheduling the case for a hearing on the merits from 8-9 September 2015 from 1400 hours. In the said Order which was also duly served on both Parties, the Tribunal directed the Parties to file with its Registry their list of witnesses and witness statements by 30 July 2015.
5. On 29 July 2015, the Respondent filed his submission in compliance with Order No. 121 (NBI/2015) and prayed for leave to amend his pleadings.
6. On 7 August 2015, the Tribunal vide Order No. 249 (NBI/2015), granted the Respondent leave to amend his pleadings. Both the Respondent’s prayer to amend his pleadings and the leave granted him to do so were served on the Applicant and his Counsel.
7. In the morning of 8 September 2015, staff of the Tribunal’s Registry made several unsuccessful attempts to make telephone contact with the Applicant and his Counsel.

8. The Tribunal convened to hear the case at 1400 hours Nairobi time on 8 September 2015 as scheduled. Between 1400 and 1500 hours, several attempts were made to contact the Applicant and his Counsel via telephone to participate in the hearing. The telephone connection was disconnected soon after initial contacts lasting several seconds.

9. At 1750 hours on 8 September 2015, the Applicant, using the same email address that the Registry has been using to communicate with him, sent an email indicating a telephone number only as the contents.

Considerations

10. Subsequent to the filing of his Application, the Applicant has consistently failed to respond to the Registry's communications in respect to his case. The Applicant who from the information provided by him is represented by Counsel registered to practice Law in South Sudan and the said Counsel have both failed to comply with any of the Tribunal's Orders. The fact that the Applicant is aware of these proceedings is shown by his email sent after business hours on 8 September 2015 using the same email address earlier provided by him and used by the Tribunal's Registry to contact and communicate with him.

11. The Tribunal considers that the Applicant has, subsequent to the filing of his Application, shown no interest in actively and diligently pursuing his case. The Organization's resources have been wasted in facilitating the hearing of this matter including the Respondent's availing of video conference facilities and several personnel from the Division of Conference Services at the United Nations Office at Nairobi were on standby to record the proceedings.

ORDER

12. In view of the foregoing, the Tribunal hereby strikes out the present Application on the merits.

Case No. UNDT/NBI/2014/107

Order No. 286 (NBI/2015)

(Signed)

Judge Nkemdilim Izuako

Dated this 10th day of September 2015

Entered in the Register on this 10th day of September 2015

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi