



Before: Judge Vinod Boolell

Registry: Nairobi

Registrar: Abena Kwakye-Berko

KETO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:

Abbe Jolles

Counsel for the Respondent:

ALS/OHRM

Introduction

1. The Applicant is a staff member of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). He is contesting the “non-payment of months of salary without explanation or justification”.

2. On 13 January 2016, the Applicant’s Counsel submitted an Application on his behalf with the United Nations Dispute Tribunal (UNDT) in Nairobi via the Nairobi Registry’s email account. Counsel wrote the following message to the Registry:

Please file attached Application of [the Applicant], today, January 13, 2016. Please kindly confirm receipt and access (emphasis in original).

Please note that the UNDT website instructs/permits filing by email attachment (emphasis in original).

“If you are unable to make your filing through the eFiling portal, you may file your application electronically by email. In this case, please follow the instructions below:

Download, fill out and sign the relevant application form on your computer. In accordance with article 8.3 of the Tribunal’s Rules of Procedure, the application form shall be signed. You may thus choose to submit your signed application in PDF format or submit it in Word format and attach, as an annex, a separate PDF document with your signature.

Transmit by e-mail the application and any supporting documents to the relevant Registry in Geneva, Nairobi or New York. You should file your application based on location of the office or duty station where you were serving at the time when the administrative decision you wish to appeal was taken. To see how the offices/duty stations are distributed among Registries, please refer to Distribution of Cases Between Different UNDT Locations. The email addresses are:

Geneva Registry: undt.geneva@unog.ch

Nairobi Registry: undt.nairobi@unon.org

New York Registry: undt-newyork@un.org

Thank you for your kind and immediate attention to this matter.

3. The Nairobi Registry created an account in the Court Case Management System (“CCMS”) on behalf of the Applicant and uploaded the Application that was attached to Counsel’s email.

Considerations

4. The Tribunal has taken note of the instruction on the website of the Office of Administration of Justice, which Counsel has gone to great lengths to quote in her email of 13 January 2016.

5. Pursuant to Practice Direction No. 4, which was adopted by the Judges of the UNDT on 27 April 2012, “all applications shall be submitted electronically through the e-Filing portal unless the filing party does not have access to it”.

6. In A/66/275 (Administration of Justice at the United Nations), the Secretary-General advised the General Assembly that the launching on 6 July 2011 of the electronic filing system of the Office of Administration of Justice represented a “major milestone”, which includes the capacity to enable staff members from any duty station to file and monitor their cases electronically. As stated in the Report, this web-based system is “expected to increase efficiency, reduce delays and improve the overall functioning of the Registries”.

7. Counsel for the Applicant appears to have misunderstood the instruction on the website when she simply attached the Application to an email and basically instructed the Registry to take on the responsibility of creating an account for the Applicant in CCMS and filing the submission therein on his behalf.

8. The operative word in the website instruction is “unable”, which connotes that a party has at least made an attempt to file a submission via CCMS but failed to do so due to incapacity, a technical problem or the inexistence of technological facilities at his/her location. Clearly, this is not the case here as Applicant’s Counsel has filed pleadings electronically. Applicant’s Counsel has not bothered or attempted to offer

any rational explanation to explain or justify her inability to file through CCMS and takes it upon herself to dictate to the Tribunal that it should make its meagre resources available for her use as a matter of right. While parties have an undeniable right of access to a court of law at the same time they are required to comply with standard procedures and not try to impose their own views or practices on the court. It is the considered view of this Tribunal that parties appearing before the UNDT shall file their submissions through CCMS unless they can show they either have no access to the e-Filing portal or that it is impossible either technically or for some valid reason, which must be proved, to use it.

9. Accordingly, any further submissions and documents in the present matter should be submitted to the Tribunal by the parties via CCMS unless they can prove otherwise.

10. Additionally, during its perusal of the Application submitted by Counsel on 13 January 2016, the Tribunal noticed that Counsel did not provide copies of: the Applicant's management evaluation request, the emails referred to in the Application or any other supporting documentation. Without these documents, the Registry is not in a position to serve the Application on the Respondent.

It is thereby ORDERED that:

11. The Applicant's Counsel is to submit the management evaluation request, copies of the emails referred to in the Application and any other supporting documentation, properly labeled as annexes, **through CCMS no later than 4 February 2016.**

(Signed)

Judge Vinod Boolell

Dated this 2nd day of February 2016

Entered in the Register on this 2nd day of February 2016

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi