



**Before:** Judge Goolam Meeran

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

MANLY-SPAIN

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**CASE MANAGEMENT ORDER**

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**Counsel for the Applicant:**

Nicole Washienko, OSLA

**Counsel for the Respondent:**

Alister Cumming, ALS/OHRM

## **Introduction**

1. On 4 August 2016, the Parties were informed that this matter has been transferred to the docket of Judge Goolam Meeran.
2. On 11 August 2016, the Tribunal issued Order No. 411 (NBI/2016) setting the matter down for a Case Management Discussion (CMD).
3. The CMD took place on 18 August 2016 in the presence of the Applicant and Counsel for both Parties. The purpose of the CMD was to clarify and agree the issues in contention and to determine what further action, if any, was required in order to reach a judicial determination on the merits.
4. On 19 August 2016, the Tribunal issued Order No. 417 (NBI/2016) in which it directed the Parties to file a joint motion indicating whether agreement has been reached to resolve this matter.
5. On 20 September 2016, the Parties jointly informed the Tribunal that settlement discussions are ongoing, and asked for further time to conclude their discussions towards a resolution.
6. On 21 September 2016, the Tribunal issued Order No. 437 (NBI/2016) granting the Parties' motion and staying all proceedings until 7 October 2016.
7. On 7 October 2016, the Parties jointly informed the Tribunal that settlement discussions have been unsuccessful, and requested that proceedings be resumed. The Tribunal considered that another CMD was necessary.
8. The Tribunal issued Order No. 452 (NBI/2016) setting the matter down for another CMD on 19 October 2016 to continue the discussions which were kept in abeyance pending the Parties' exploration of an alternative resolution.

9. The CMD took place on the scheduled date. Both Parties were represented by Counsel.

### **The Discussion**

10. The Parties informed the Tribunal that the record is complete and the case is ready for a judicial determination, as settlement is no longer a realistic proposition.

11. The Applicant clarified that the amount recovered from the Applicant was US27,661.29. US 12,369.75 was credited to her husband's account, so that the amount in dispute is US15,921.54. That amount represents the difference between the payment of the dependency rate of salary and the dependency allowance, had it been paid to the Applicant.

12. The Applicant maintains that her claim for the dependency allowance, and the dependency rate of salary, were properly made, based on the provisions of the administrative instruction in force and applicable at the time.

13. The Tribunal observed that the submissions in paragraph 28 of the Application did not form part of her request for review by Management Evaluation.

14. The Tribunal drew attention to paragraph 12 of the Application, and asked how the Applicant intended to demonstrate the submissions made therein.

IT IS ORDERED THAT:

15. **By 3 November 2016**, the Applicant will file her further and final submissions with the Tribunal, dealing with the following:

- a) The technical, legal arguments raised by the Respondent, to include, in particular the factual and legal submissions relating to the receivability of the claim;

- b) Jurisdiction of the Tribunal to deliberate on matters not previously canvassed before the Management Evaluation Unit;
- c) The Respondent's actions of recovering payment without the written consent of the Controller;
- d) The administrative error alleged by the Applicant;
- e) The contention that the Applicant is presumed to know the law;
- f) What loss, if any, has the Applicant incurred showing the basis of her calculations.

16. The Respondent will file his submissions in response to the Applicant's filing **by 4 November 2016.**

*(Signed)*

Judge Goolam Meeran  
Dated this 24<sup>th</sup> day of October 2016

Entered in the Register on this 24<sup>th</sup> day of October 2016

*(Signed)*  
Abena Kwakye-Berko, Registrar, Nairobi