



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/041
Order No.: 069 (NBI/2020)
Date: 16 April 2020
Original: English

Before: Judge Eleanor Donaldson-Honeywell
Registry: Nairobi
Registrar: Abena Kwakye-Berko

RUBVUTA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

CASE MANAGEMENT ORDER

Counsel for the Applicant:
Sètonджи Roland Adjovi

Counsel for the Respondent:
Elizabeth Gall, AAS/ALD/OHR

Introduction

1. The Applicant served as a Special Assistant, Political Affairs, at the P4/VI level with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). He held a fixed term appointment and was based in Bangui, Central African Republic.

Procedural History

2. On 28 March 2018, the Applicant filed an application challenging the non-renewal of his appointment beyond 31 December 2017 following what he claims to be a flawed performance appraisal.

3. The Respondent filed a reply on 3 May 2018.

4. On 22 June 2018, the Applicant sought leave to file a response to the reply in order to correct “numerous false and/or unsupported statements”.¹

5. On 31 July 2018, the Respondent sought leave to file supplementary submissions to the reply and to respond to the new submissions and documents disclosed in the Applicant’s motion of 22 June 2018.²

6. On 9 November 2018, the Applicant in turn sought leave to file a response to the Respondent’s motion of 31 July 2018.³

7. On 20 November 2019, the Tribunal issued Order No. 196 (NBI/2019) scheduling a CMD in this case for 9 December 2019.

8. At the CMD, Counsel for the Respondent appeared in person. Counsel for the Applicant was contacted to attend the discussion on the mobile number

¹ Applicant’s motion dated 22 June 2018.

² Respondent’s motion dated 31 July 2018.

³ Applicant’s motion dated 9 November 2018.

provided. Counsel for the Applicant was, however, in a moving vehicle at the time of the CMD. The combination of loud interference and poor connection from being in a moving vehicle, compelled the Tribunal to adjourn the proceedings.

9. On 10 December 2019, the Tribunal issued Order No. 213 (NBI/2019) rescheduling the CMD for 13 January 2020.

10. On 10 January 2020, the Applicant filed a Motion for reconsideration of Order No. 213 (NBI/2019). He sought this reconsideration on two grounds. The first is related to the Tribunal's description of the factual circumstances leading to the hearing, while the second one derives from the publication of Order No. 213 (NBI/2019).

11. A CMD took place as scheduled. However, matters listed for discussion on the agenda were not discussed. Instead the discussion addressed only the Applicant's motion for reconsideration of Order No. 213 (NBI/2019).

12. On 14 January 2020, the Tribunal issued Order No. 005 (NBI/2020) setting timelines for the parties to make further submissions on the motion for reconsideration.

13. On 6 February 2020, following the parties' compliance with Order No. 005 (NBI/2020), the Tribunal issued Order no. 031 (NBI/2020) dismissing the motion for reconsideration of Order No. 213 (NBI/2019). The Tribunal also directed the Registry to assign this matter to a different judge "to ensure that the matter proceeds with no perception of ill will on account of these proceedings."

14. The matter was accordingly transferred to the docket of the undersigned Judge.

ORDERS

15. The Tribunal has reviewed the submissions of the parties and is of the view that the case is suitable for determination on the papers filed. In so doing there are clear issues to be determined that can be identified by the Tribunal. However, in order to facilitate the fullest consideration of all issues, the views of the parties will be considered. As such the relevant issues to be determined, identified by the parties as in dispute in this matter, are to be clearly and jointly agreed upon and delineated.

16. In the process of those discussions, the parties should also consider their respective positions on the likelihood of this dispute being resolved *inter partes*.

17. 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 the UNDT Statute and 15.1 of the Rules of Procedure and being mindful of paragraph 27 of General Assembly resolution 69/203 (Administration of justice at the United Nations), strongly urges the parties in this matter to consult and deliberate in good faith on having this matter informally resolved or mediated.⁴

18. The undersigned Judge notes that as her current term with the Dispute Tribunal in Nairobi is limited to three months, the parties will be required to strictly cooperate with observing the deadlines set out in the Tribunal's orders.

19. To this end, the Tribunal issues the following orders. The parties are **DIRECTED to JOINTLY submit a concise statement on the following:**

- a) the facts relevant for determination of the case, both **agreed and disputed**, listed in chronological order;

⁴ Paragraph 27 states: "Recalls the emphasis placed by the General Assembly on the resolution of disputes and requests the Secretary-General to report on the practice of proactive case management by the judges of the United Nations Dispute Tribunal in the promotion and successful settlement of disputes within the formal system in his next report".

b) the legal issues identified as arising from those facts, for determination by the Tribunal;

c) whether this matter may be decided by the Tribunal on the basis of the parties' written submissions filed to date;

d) whether the parties are amenable to considering an alternative resolution to the dispute.

20. The parties are directed to file their submissions by **Thursday, 30 April 2020**.

(Signed)

Judge Eleanor Donaldson-Honeywell

Dated this 16th day of April 2020

Entered in the Register on this 16th day of April 2020

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi