



UNITED NATIONS DISPUTE TRIBUNAL

Case Nos.: UNDT/NBI/2020/033
Order No.: 096 (NBI/202)
Date: 20 May 2020
Original: English

Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S
MOTION FOR EXPEDITED
PROCEEDINGS**

Counsel for the Applicant:

Charles Adeogun-Phillips
Sètondji Roland Adjovi
Chukwudi Unah
Morenike Oluwadare

Counsel for the Respondent:

Katrina Waiters, UNFPA

Introduction

1. The Applicant filed an application on 8 May 2020 challenging his dismissal from the United Nations Population Fund (“UNFPA”) pursuant to staff regulation 10.1(a) and staff rule 10.2(a)(ix).
2. The Respondent’s reply is due on 11 June 2020.
3. On 19 May 2020, the Applicant filed a motion entitled “application for expedited proceedings case management discussion and oral evidence”.
4. This matter is not yet assigned to a judge. As Duty Judge, the undersigned Judge will only rule on the motion of 19 May 2020.

Considerations

5. In his motion, the Applicant calls upon the Tribunal to exercise its discretionary authority under: (a) articles 8.3 of the UNDT Statute and 35 of the UNDT Rules of Procedure to shorten the deadline for the Respondent’s reply; (b) art. 19 of the UNDT Rules of Procedure to schedule an expedited case management discussion (“CMD”) and oral hearing; and (c) art. 17 to call the Executive Director and the Director, Office of Audit and Investigation Services, UNFPA to give oral evidence at said hearing.
6. The Applicant submits that the expeditious hearing of this matter will ensure that justice is done to both parties given the stress, reputational damage and discrimination he and his family have and continue to suffer as a result of the contested decision.
7. The Tribunal finds, primarily, that art. 8.3 of the UNDT Statute, upon which the Applicant relies in bringing the current motion, relates to the suspension or waiver of the deadline for filing an application. It is clearly inapplicable since the Applicant initiated these proceedings with the filing of his application on 8 May 2020.
8. It further notes that it has before it an application that is approximately 16 pages

long, is supported by 27 annexes and microscopically dissects the facts, evidence and issues in this case. It is obvious that the Applicant's legal team invested a considerable amount of time and effort into drafting the application to ensure the Applicant's case and defense have been properly presented. In this respect, the Tribunal considers it just for the Respondent to be given an appropriate amount of time to properly answer the case that has been brought against him. Article 10 of the UNDT Rules of Procedure grants the Respondent 30 calendar days within which to file a reply, the Tribunal sees no reason, especially in a complex case such as the present one, to shorten this deadline.

9. While the Tribunal has a keen interest in expeditiously disposing of cases, this interest must, of necessity, be balanced against its interest in ensuring equitable treatment not only for the parties in these proceedings but parties in all proceedings currently pending before it. The Tribunal has taken careful note of the Applicant's submission regarding the negative impact the contested decision is having on him and his family but it cannot, immediately, schedule a case management discussion or an oral hearing. The UNDT in Nairobi is currently seized of 23 applications contesting disciplinary measures, 20 of which are also challenging the disciplinary measures of dismissal/separation from service. These applications were all filed before the current application. The Tribunal will adjudicate these applications in chronological order as it has been its usual practice.

10. Once the case is formally assigned to a judge, they will make the orders they deem necessary for case management, which includes, but is not limited to, the production of documents and witnesses.

ORDER

11. The Applicant's motion of 19 May 2020 is refused.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 20th day of May 2020

Entered in the Register on this 20th day of May 2020

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi