



Before: Judge Agnieszka Klonowiecka-Milart
Registry: Nairobi
Registrar: Abena Kwakye-Berko

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
INTERPRETATION**

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Romy Batrouni, AAS/ALD/OHR
Miryoung An, AAS/ALD/OHR

Introduction

1. The Applicant is a staff member at the United Nations Truce Supervision Organization (“UNTSO”), in Jerusalem, Israel.¹ By Order No. 150 (NBI/2020), the Tribunal granted his application for suspension of action.

2. On 18 August 2020, the Applicant filed an application for interpretation, referring to para. 48 of the said Order.

Procedural background and facts

3. On 3 August 2020, the Applicant filed an application for suspension of action pending management evaluation against a decision dated 24 July 2020 that had placed him on Administrative Leave Without Pay (“ALWOP”) for a finite period of time.

4. On 10 August 2020, the United Nations Dispute Tribunal in Nairobi granted the application and ruled that the decision to place the Applicant on ALWOP be suspended.

5. On 11 August 2020, the Applicant was placed on administrative leave with pay (“ALWP”).² On 13 August 2020, the Applicant received a personnel action notification indicating that he has been put on ALWP effective 12 August 2020.

6. Thereafter, the Applicant sought clarification from Human Resources Section (“HRS”), UNTSO, as to why his placement on ALWP commences from 12 August 2020 and not from 27 July 2020 when he had been placed on ALWOP. In reply, the HRS informed the Applicant that the action was taken as per instructions from the Headquarters.³

¹ Applicant Order No. 150 (NBI/2020).

² Application, annex A.

³ Application, annex B.

7. Accordingly, the Applicant requests the Tribunal to clarify whether he should be removed from ALWOP starting from 27 July 2020 or from the date of the Order suspending his placement on ALWOP which was issued on 10 August 2020.⁴

Considerations

8. Paragraph 48 of Order No. 150 (NBI/2020), to which the Applicant refers reads, “the application is granted and the decision to place the Applicant on administrative without pay is suspended”.

9. In *Porter*⁵, the Appeals Tribunal held that “[i]t is trite law that interpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubt about the will of the Tribunal or the arguments leading to a decision”. Accordingly, “if the judgment is comprehensible, whatever opinion the parties may have about it or its reasoning, an application for interpretation is not admissible”.

10. In the present application for interpretation, the Applicant does not state that para. 48 of the order in question is not comprehensible. Order No. 150 (NBI/2020) does not set any other date of its effect and as such, absent any other provision to the contrary, is effective as of the date of its issuance. This results from the entirety of the applicable norms. It is apparent that the Applicant does not seek interpretation of the Order but rather attempts to set interpretation of the rule expressed by art. 2 of the UNDT statute so as to give the suspension of his ALWOP a retroactive effect. The Tribunal will not entertain this request.

Conclusion

11. The application for interpretation is refused.

⁴ Application, para 6.

⁵ *Porter* 2017-UNAT-796-para. 20.

Case No.: UNDT/NBI/2020/066

Order No.: 156 (NBI/2020)

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 20th day of August 2020

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

(Signed)

Eric Muli, Legal Officer, for,
Abena Kwakye-Berko, Registrar, Nairobi