



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2019/033
Order No.: 190 (NBI/2020)
Date: 30 September 2020
Original: English

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

KUATE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:
Jean-Jacques Kouembeu Tagne

Counsel for the Respondent:
Nicole Wynn, AAS/ALD/OHR
Rosangela Adamo, AAS/ALD/OHR

Introduction

1. The Applicant is a Conduct and Discipline Officer at the P-3 level, working with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (“MONUSCO”).¹
2. By an application filed on 22 March 2019, the Applicant challenges a decision to make deductions from his salary to be paid to his wife to satisfy child support obligations since November 2015 to present and recoveries of other related entitlements made by the Organization.²
3. The Respondent filed a reply on 26 April 2019 in which it is argued that the contested decisions were lawful.

ORDERS

4. The Respondent is required to clarify the apparent contradiction in representations made on his behalf.
5. First, there is a contradiction between paragraph 17 of the reply concerning child support deductions which states that:

“since the July 2018 payroll, the Organization has deducted monthly approximately USD 2700 *prospectively* from the Applicant’s salary to satisfy his child support obligations and to pay to his former spouse [emphasis added]”

and the statement contained in the Regional Service Centre Entebbe (“RSCE”) memorandum to the Applicant dated 8 September 2018 (Application, annex 4), whereby the latter is informed in para 4 that:

“in addition [to deductions since July 2018] the RSCE *will recover the equivalent of 1500.000 CFA Francs monthly for the period from 26 November 2015 to 30 June 2018* [emphasis added]”.

¹ Application, section I.

² Application, section V.

In this connection, the Respondent is required to state if any retroactive deductions were made on account of child support, and if so, how they were calculated and based on what court decisions they were made, or whether the memorandum dated 8 September 2018 at paragraph 4 was in error and has not been implemented.

6. Second, there is a contradiction between a statement concerning recovery of entitlements contained in the same RSCE memorandum to the Applicant dated 8 September 2018 (application, annex 4), which says:

“based on the Order issued [...] on 26 November 2015 [...] entrusting two out of your four dependent children to you and the other two to your spouse, the Mission will recover *equivalent of the total amount paid to you as child allowance and other related benefits*, such as education grant, if applicable, for the period from 26 November 2015 to 7 September 2017 [emphasis added]”

and the statement contained in the memorandum to the Applicant dated 24 September 2018 (application, annex 6), in paragraph 1, which says:

“dependency allowance in respect of daughters C. Kuate and N. Kuate has been discontinued effective 26 November 2015;
whereas dependency allowance in respect of daughters Y. Kuate and S. Kuate has been discontinued effective 8 September 2017.”

In this connection, the Respondent shall clarify whether recoveries actually made were in accordance with the memorandum to the Applicant dated 8 September 2018 (Application, annex 4) or the one dated 24 September 2018 (Application annex 6) and, in any event, whether in calculation of all recoveries it was taken into account that during the period between 26 November 2015 to 7 September 2017 the Applicant had custody over two of his children. If not, why so, and what would be the difference in the deducted amount.

7. The submissions required as stated above shall be filed by **5.00 pm (Nairobi time) on 21 October 2020.**

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 30th day of September 2020

Entered in the Register on this 30th day of September 2020

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi