



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

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON A REQUEST FOR
ANONYMITY**

Counsel for the Applicant:

Evelyn W. Kamau, OSLA

Counsel for the Respondent:

Nicole Wynn, AAS/ALD/OHR
Rosangela Adamo, AAS/ALD/OHR

Introduction

1. The Applicant is a Child Protection Officer, working with United Nations Mission in South Sudan (“UNMISS”), based in Bor, South Sudan. She serves on a fixed-term appointment (“FTA”) at the P-3 level.¹

2. On 25 September 2020, the Applicant filed an application for suspension of action before the United Nations Dispute Tribunal in Nairobi. She sought: (i) suspension of the decision denying her to telecommute and compelling her to return to the duty station by 1 October 2020 pending management evaluation; and (ii) a Villamoran suspension of the contested decision pending the art. 13 suspension of action proceedings pursuant to articles 19 and 36 of the UNDT Rules of Procedure.

3. On 29 September 2020, the application was rejected.

4. On 2 October 2020, the Applicant filed a request for anonymity and the exclusion of any reference to her medical condition in the order rejecting her application. She demonstrated that the management distributed the Order bearing her name to her co-workers, to illustrate a legal point which it supported.

Deliberations

5. The Dispute Tribunal often deals with applications involving matters that are private and/or may be embarrassing, however, are relevant to the terms of employment in dispute: work place conflicts, allegations of misconduct, family relations and medical conditions giving rise to disputes over entitlements. Among them, where a medical condition constitutes factual basis for the claim, consideration of the medical condition must appear in the decision. At the same time, it has been established in the jurisprudence of the Appeals Tribunal that decisions of the Tribunals are public, including the details of the applicants, whereas anonymity is to

¹ Application, section V.

be granted in exceptional circumstances only. In seeking to strike the balance between the interests represented here, the Tribunal acts *ex officio* where an applicant or other persons concerned by the matter (witnesses, victims, minors) have no legal representative. Where an applicant has Counsel, it is presumed that Counsel attends to the need for protection of privacy of the client where required.

6. Pursuant to art. 36 of the Rules of Procedure of the Tribunal, all matters that are not provided for in the rules of procedure shall be dealt with by decision of the Dispute Tribunal on the particular case, by virtue of the powers conferred on it by article 7 of its statute. In the present case, the Tribunal finds it appropriate to grant the request for anonymity.

ORDER

7. The motion is granted as requested and Order No. 188 (NBI/2020) shall be redacted to remove the names and reference to her medical records.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 2nd day of October 2020

Entered in the Register on this 2nd day of October 2020

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi