



Before: Judge Francis Belle
Registry: Nairobi
Registrar: Abena Kwakye-Berko

ULAR

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON FURTHER SUSPENSION OF
PROCEEDINGS PENDING MEDIATION**

Counsel for the Applicant:
Irene Kashindi

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

Introduction

1. The Applicant holds a fixed term appointment at the FS-4 level with the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo (“MONUSCO”). She serves as an Administrative Assistant and is based in Kinshasa.

2. On 3 May 2019, she filed an application with the Dispute Tribunal. The Applicant described the decision she challenges as: (a) continued harassment, unfair treatment and abuse of authority that cannot be classified as one single decision; (b) breach of several rules and regulations; (c) not being considered and bypassed for promotion on several occasions resting with a decision made on 22 January 2019; (d) not being compensated for work performed at a higher level; and (e) failure to address a claim for sexual harassment and abuse.

3. On 10 June 2019, the Respondent filed his reply.

4. On 9 January 2020, the Applicant filed a motion seeking an order for interim measures to reassign her to another duty station because of alleged ill-treatment by her colleagues and her Second Reporting Officer (“SRO”) following the filing of her application on 3 May 2019. The Tribunal issued Order No. 013 (NBI/2020) dismissing the motion for interim measures.

5. On 23 July 2020, the Tribunal issued Order No. 140 (NBI/2020) to manage the case. Among other things, the Tribunal asked the parties if they are amenable to the matter being resolved *inter partes*.

6. On 4 August 2020, the parties filed a joint motion for suspension of proceedings pending mediation and asked that the matter be referred to the Office of the Ombudsman and Mediation Services (“OMS”) to facilitate the process. This

motion was granted on 6 August 2020 by Order No. 147 (NBI/2020) suspending proceedings to 31 August 2020.

7. On 31 August 2020, the Director of Mediation wrote to the Registry of the UNDT seeking more time for the parties to continue with their “good faith efforts” to resolve this matter without recourse to litigation.

8. On 2 September 2020, the Tribunal issued Order No. 168 (NBI/2020) granting the extension of time that was sought.

9. On 2 October 2020, the Director of Mediation informed the Tribunal that the parties are continuing their discussions in good faith towards a partial settlement of the dispute, and that an extension of the suspension of proceedings would facilitate finalization of those discussions.

Considerations

10. The Tribunal commends the parties for their sustained efforts at resolving this matter *inter partes*.

11. To this end, the Tribunal makes the following **ORDERS**:

- i. The motion for suspension of proceedings is hereby **GRANTED**;
- ii. The Registry is **DIRECTED** to serve a copy of this Order on OMS;
- iii. The parties and/or OMS should advise the Tribunal on the status of mediation by **12 October 2020**; and
- iv. The proceedings in the matter of *Ular v Secretary General of the United Nations* (UNDT/NBI/2019/046) are hereby suspended pending mediation.

(Signed)

Judge Francis Belle

Dated this 6th day of October 2020

Entered in the Register on this 6th day of October 2020

(Signed)

Eric Muli, Legal Officer, for

Abena Kwakye-Berko, Registrar, Nairobi