



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

ULAR

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

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 decisions 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 were 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 United Nations Ombudsman and Mediation Services (“UNOMS”) 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 Services 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 Services informed the Tribunal that the parties were 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.

10. On 6 October 2020, the Tribunal issued Order No. 195 (NBI/2020) to allow more time for the partial settlement to be finalised.

11. On 15 October 2020, the Applicant informed the Tribunal that the dispute had been partially settled and withdrew that part of the claim which was no longer in dispute.

12. The Tribunal held a case management discussion with the parties on the same day to discuss delineation of the issues that remain in dispute.

13. Following the parties’ respective submissions on receivability and the need for an oral hearing in this matter, the Tribunal scheduled another case management discussion on 16 November 2020.

Considerations

14. The Tribunal has carefully reviewed the parties oral and written submissions on receivability and the need for an oral hearing.
15. The Tribunal finds that the parties' extensive written submissions in this matter makes it suitable for determination on the papers.
16. The Tribunal will address issues of receivability in its judgment.
17. To this end, the Tribunal makes the following **ORDERS**:
 - i. The Applicant's motion for an oral hearing in this matter is **REFUSED**:
 - ii. The parties are directed to file their respective closing submissions on receivability of the issues that remain in dispute by **18 December 2020**.

(Signed)

Judge Francis Belle

Dated this 10th day of December 2020

Entered in the Register on this 10th day of December 2020

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi