



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

WABERI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE PARTIES' JOINT
REQUEST FOR ADDITIONAL TIME TO
CONTINUE WITH INFORMAL
SETTLEMENT DISCUSSIONS**

Counsel for the Applicant:
Brandon Gardner, OSLA

Counsel for the Respondent:
Nicole Wynn, AAS/ALD/OHR
Maureen Munyolo, AAS/ALD/OHR

Introduction

1. On 5 August 2019, the Applicant filed an application challenging the decisions of the United Nations Organization Stabilization Mission in the Democratic Republic of Congo (“MONUSCO”) to: (a) not pay her salaries and entitlements since July 2018; (b) lack of cooperation on the part of administration to resolve the issue of her salary and entitlements for more than a year; and (c) the implied decision by the MONUSCO Administration to hold her separation notification form (PF.4), thus preventing her from receiving her disability benefits from the United Nations Staff Pension Fund (“UNJSPF”).¹

2. On 13 December 2019, the Applicant filed submissions pursuant to Order No. 186 (NBI/2019) and stated that indeed, some of her claims were resolved through informal mediation. However, the following two issues remained unresolved:

- a. payment of the amount equivalent to 72 days of sick leave on full pay; and
- b. adequate compensation for moral harm resulting from the lack of cooperation on the part of the Administration to resolve the issue for more than 14 months.²

3. In light of the submissions by the parties, the Tribunal held a case management discussion (“CMD”) on 27 July 2021 and the parties declared a possibility of informally resolving the outstanding issues.

4. On 28 July 2021, the Tribunal by Order No. 146 (NBI/2021), *inter alia*, directed the parties that on or before 30 August 2021 they should inform the Tribunal as to whether they are willing to enter an amicable settlement as to the remaining issues under dispute.

¹ Application, section V.

² Applicant’s submissions in response to Order No. 186 (NBI/2019), filed on 13 December 2019.

5. On 30 August 2021, the parties filed a joint response to Order No. 146 (NBI/2021) informing the Tribunal that they were making good faith efforts to amicably resolve the case. In order to conclude the process, the parties request the Tribunal to grant additional time until 15 October 2021 so as to continue settlement discussions to accommodate the availability of the parties, their Counsel and the human resources professionals who are being consulted on this matter.

ORDERS

6. The joint request for additional time to explore settlement options is granted until 15 October 2021. Given the history of the dispute, however, the Tribunal does not foresee entertaining any further requests for postponement.

7. Absent a settlement, and absent a responsive answer regarding agreed calculation of the Applicant's sick leave as directed in Order No. 146 (NBI/2021), the Tribunal will consider that the Applicant did not prove arithmetical inaccuracy of the calculation made by the Respondent and will accept 72 days as the number which is disputed solely because of the method applied.

8. The Respondent, in addition to issues listed in Order No. 146 (NBI/2021) under 5(b) and (c), is requested to respond to the remaining allegations of lack of cooperation by the administration:

a. explain the disputed question of the Applicant's return ticket, in particular: whether the Applicant had proceeded on home leave or had been evacuated or had any Emergency Travel entitlement; why the reimbursement had been questioned; why corrections needed to be made;

b. explain whether MONUSCO initially refused to place the Applicant on special leave with half pay pending the Pension Fund Committee's decision regarding her placement on disability benefit, and if so, what was the reason for that refusal.

Case No.: UNDT/NBI/2019/115

Order No.: 182 (NBI/2021)

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 7th day of September 2021

Entered in the Register on this 7th day of September 2021

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi