



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2019/163

Order No.: 051 (NBI/2022)

Date: 25 April 2022

Original: English

Before: Judge Margaret Tibulya

Registry: Nairobi

Registrar: Abena Kwakye-Berko

TOSON

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S
MOTION FOR WITHDRAWAL**

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Katrina Waiters, UNFPA

André Luiz Pereira de Oliveira, UNFPA

Background

1. The Applicant is a staff member of the United Nations Population Fund (“UNFPA”) serving as Representative at the UNFPA Oman Country Office (“CO Oman”) within the Arab States Regional Office (“ASRO”) at the P-5 level.
2. On 8 December 2019, he filed an application contesting the decision to renew his contract by 12 months only from 20 March 2020 until 31 March 2021 instead of the usual two years (“the contested decision”).
3. The Respondent filed a reply on 13 January 2020.
4. The Tribunal held a case management discussion (“CMD”) on 14 May 2020 during which the Tribunal informed the parties that it would rule on the Applicant’s motions (which he presented orally during the CMD) in due course.
5. On 13 November 2020, the Tribunal issued Order No. 226 (NBI/2020). In said Order, the Tribunal:
 - a. refused the Applicant’s request that the Respondent preserve and produce the email databases of several named staff members;
 - b. refused the Applicant’s request for production of the Investigation Report regarding his complaint over retaliation;
 - c. granted the Applicant’s request to the Respondent to avail four witnesses he named for examination; and
 - d. set the case down for a hearing on the merits on a date that was to be communicated to the parties by the Registry.
6. On 8 April 2021, the Applicant filed a motion requesting the Tribunal to suspend the proceedings in this case on the ground that, on 25 November 2020, he had appealed Order No. 226. The motion was granted.

7. The United Nations Appeal Tribunal (“UNAT”) issued a judgment on 4 January 2022 affirming the UNDT Order. On 4 April 2022, the Tribunal informed the parties that it intended to hold a hearing on the merits of the case from 3 – 6 May 2022, indicating that four of the witnesses were expected to testify before the Tribunal. The parties were further requested to inform the Registry of the feasibility of those trial dates or any other related issues by 6 April 2022.

8. On 6 April 2022, the Registry received an email from Ms. Reem Salhi, who stated that she is the Applicant’s wife. The pertinent parts of the email are reproduced below.

My name is Mme. Reem Salhi, wife of Applicant [...].

Please kindly inform the honorable Judge that my husband is very sick and has been and continues to be on sick leaves approved by UN medical services for many months, per attachments, and undergoing medical treatment.

His doctors advised to strictly refrain from any stress to avoid further deterioration of his delicate health.

He is unable to pursue further proceedings or submissions. Kindly, he ask to withdraw his case.

The email was sent from the Applicant’s email address.

9. On 7 April 2022, the Registry transmitted an email to the Applicant’s email address requesting the Applicant to formally withdraw his application using the Registry forms provided to do so. To date, no response has been received to the request.

Consideration

10. The Tribunal has reviewed the Applicant’s United Nations personnel forms (submitted as annexes in other applications before it) and notes that, indeed, a Ms. Reem Salhi is recognized as the Applicant’s spouse. The Tribunal, inasmuch as it sympathizes with the Applicant’s medical predicament, is also required, in accordance with art. 19 of its Rules of Procedure, to expeditiously dispose of cases in its docket. This case has been in the Tribunal’s docket for 868 days and cannot remain there

indefinitely considering, *inter alia*, the resources to be expended by the Respondent to continue to litigate it.

ORDER

11. In view of the foregoing, it is ORDERED that Case No. UNDT/NBI/2019/163 be hereby closed and struck from the Tribunal's docket.

(Signed)

Judge Margaret Tibulya

Dated this 25th day of April 2022

Entered in the Register on this 25th day of April 2022

(Signed)

Eric Muli, Legal Officer, for
Abena Kwakye-Berko, Registrar, Nairobi