



Before: Judge Francesco Buffa

Registry: Nairobi

Registrar: Abena Kwakye-Berko

GUIMARAES

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:

Julia Kyung Min Lee, OSLA
Jason Biafore, OSLA

Counsel for the Respondent:

Nicole Wynn, AS/ALD/OHR, UN Secretariat
Fatuma Mninde Silungwe, AS/ALD/OHR, UN Secretariat

Introduction

1. On 22 July 2022, the Applicant, a former Movement Control Officer with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (“MONUSCO”), filed an application in which she contests the decision to remove her from the position of Chief of Joint Movement Coordination Centre (“JMCC”) and to reassign her as Bonded Warehouse Supervisor.
2. On 14 February 2023, the Tribunal issued Order No. 037 (NBI/2023) on case management and identified potential witnesses. The parties were given directions with a view to preparing for an oral hearing of this matter.
3. On 27 February 2023, the Tribunal issued order No. 055 (NBI/2023) on case management with notice for an oral hearing in the UNDT Courtroom in Nairobi, from 27 March 2023 to 3 April 2023.
4. On 21 March 2021, the Applicant filed a motion seeking leave to adduce additional evidence under art. 18(1) of the Dispute Tribunal Rules of Procedure.
5. On 23 March 2023, the Respondent filed a motion seeking leave to file additional documents.
6. On 24 March 2023, the Applicant submitted her response to the Respondent’s motion for leave to file additional documents.
7. On 28 March 2023, the Tribunal issued order No. 065 (NBI/2023), directing the Applicant to submit her comments on the Respondent’s motion and file contradicting documents, if necessary, by 2 April 2023; it further directed the parties to file written closing submission by 15 April 2023.
8. On 31 March 2018, the Applicant lodged her submissions pursuant to Order No. 65 (NBI/2023).
9. On 4 April 2023, the Applicant filed a motion to adduce additional evidence.

10. On 5 April 2023, the Applicant filed interrogatories for Ms. Yewande Odia, Chief of the Conduct and Discipline Team at MONUSCO pursuant to the Tribunal's directions in paragraph 19 of Order No. 65 (NBI/2023).

Considerations

11. The Tribunal notes that the Applicant does not oppose the admission of some of the documents produced by the Respondent and instead, challenges the admissibility of some evidence and objects to the admission of Annex R/16. She further seeks admission of Annex PP and OO in response to Annex R/14, Umoja records indicating the types of leave that she was on during the relevant absence period.

12. Having inspected the documents provided by the parties, the Tribunal notes that all documents are admissible and potentially relevant as evidence and therefore it admits them all, while their evidentiary value and weight will be assessed in the judgment.¹

13. As to the Applicant's request on 4 April 2023 to adduce additional evidence, the Tribunal notes that the document, although in possession of the Applicant for a long time, is related to the behavior of one of the witnesses indicated in para. 10, who didn't appear at the hearing (whom written questions can be addressed to by the parties, pursuant to Order No. 65 (NBI/2023) above mentioned), and therefore the Tribunal finds the document relevant and admits it, without prejudice for the faculty by the Respondent to comment on the document in his closing submissions.

14. Today, the Tribunal was rendered aware of the email exchanges between the Applicant and the Registry before the hearing, and in particular of the Applicant's email on 18 March 2023 saying that the Applicant does not have any contact details for the witness Ms. Yewande Odia. The Tribunal deems it necessary that today at its

¹See *Kambar* 2021-UNAT-1082, para. 43, *Verma* 2018-UNAT-829, para. 29 and *Lemonnier* 2017-UNAT-762, para. 37.

earliest convenience, the Registry and the Respondent will provide the Applicant with the contact details of the said witness in their possession.

15. As to the Applicant's submission on 5 April 2023, filing the interrogatories for Ms. Yewande Odia, the Tribunal notes that all the questions are admissible and relevant. Therefore, by Tuesday 11 April 2023 (being so amended the deadline set in Order No. 65 (NBI/2023), the Applicant can submit the questions to the witness who shall reply by Wednesday 19 April 2023.

16. The Tribunal notes that the Respondent didn't file any submission containing questions to be submitted to the witness within the deadline set in Order No. 65 (NBI/2023).

17. At this point, with the collection of evidence almost concluded, the Tribunal states that no further documents will be accepted, with the only exception of documents recalled in para. 15 (witness's answers to the Applicant's questions), documents—if necessary— to contrast the witness's written statements (to be provided by the parties with their closing submissions at the latest).and documents – if any- come into the parties' possession after the date of the present order.

18. Owing to the above-mentioned activities, the deadline for the parties to file closing submission is postponed to Wednesday 26 April 2023.

ORDERS

19. The Tribunal orders that all documents provided by the parties until this moment are to be part of the case file.

20. The Tribunal states that no further documents will be accepted, with the only exceptions mentioned in para. 17.

21. The Registry and the Respondent are directed to provide the Applicant **at the earliest** with the contact details in their possession related to Ms. Yewande Odia, Chief of the Conduct and Discipline Team at MONUSCO.

22. By Tuesday, **11 April 2023**, the Applicant (notifying this order together with the interrogatories already set in her submission recalled in para. 10) can submit questions to the witness Ms. Yewande Odia.

23. Ms. Yewande Odia shall answer in writing the Applicant's questions **by Wednesday 19 April 2023**.

24. Both parties can file with their closing submissions any document –if any- necessary to contrast the witness's written statements.

25. The parties are directed to file closing submission **on or before Wednesday 26 April 2023**.

(Signed)

Judge Francesco Buffa

Dated this 6th day of April 2023

Entered in the Register on this 6th day of April 2023

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi