



Before: Judge Sean Wallace
Registry: Nairobi
Registrar: René M. Vargas M., Officer-in-Charge

ASLAM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:

Manuel Calzada

Counsel for the Respondent:

Nicole Wynn, AS/ALD/OHR, UN Secretariat

Fatuma Mninde-Silungwe, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant was the Chief Procurement Officer with the African Union/United Nations Hybrid Operation in Darfur (“UNAMID”). He held a continuing appointment at the P-5 level and was based in El-Fasher, Sudan. He contests the Respondent’s decision to deny his claim for Appendix D benefits.

Procedural History

2. On 22 February 2023, the Applicant filed a motion for extension of time to file an application before the United Nations Dispute Tribunal in respect of the decision by the United Nations Advisory Board on Compensation Claims (“ABCC”), dated 15 August 2022, to deny his claim for illness and injuries to his right knee.

3. By Order No. 54 (NBI/2023) dated 24 February 2023, the Tribunal granted the Applicant’s motion.

4. On 24 April 2023, the Applicant filed his application challenging the decision of the Controller to endorse the recommendation of the ABCC to deny his claim for compensation.

5. The Respondent filed his reply to the application on 12 June 2023. The Respondent moved the Court to dismiss the application on ground that the Applicant failed to provide the evidence necessary to support his claim.

6. The Tribunal held a case management discussion (“CMD”) on 20 December 2023 to discuss the issues and further evidence necessary for proper adjudication of this case.

7. On 21 December 2023, the Tribunal issued Order No. 176 (NBI/2023) directing the parties to provide the Court with “all medical documents in his custody, care, or control that relate to treatments undertaken and/or his physical condition from 1996 to

present” by 1 March 2024. The parties were also strongly encouraged to consider engaging in settlement discussions to resolve this matter *inter partes*.

8. On 30 January 2024, the Registry wrote to the parties. On the direction of the Presiding Judge, the Registry wrote:

The Tribunal **strongly** encourages the parties to deploy the necessary effort towards having this matter resolved *inter partes* or with the assistance of the United Nations Office of the Ombudsman and Mediation Services (UNOMS).

The gathering of documents for submission to the Tribunal by 1 March 2024 should proceed apace, while alternative dispute resolution is being explored.

9. On 13 February 2024, the Applicant filed submissions indicating that the Respondent is not open to “pursuing a negotiated settlement” because the ABCC now wishes to review the Applicant’s case afresh.

10. On 22 February 2024, the Respondent filed submissions in response to Order No. 21 (NBI/2024). The Respondent moved the Tribunal to dismiss this matter as moot in light of the intention of the ABCC to reopen the case based on the newly submitted medical records.

11. On 4 March 2024, the parties attended a case management discussion as required of them in Order No. 21 (NBI/2024).

12. The Tribunal indicated that it would not grant the Respondent’s motion to dismiss these proceedings as moot because the reopening of the case would not resolve the issue that the Applicant was injured when an x-ray machine fell on his leg. Instead, the Tribunal indicated that it would stay this matter pending the reopened review by the ABCC.

13. As the Respondent was unable to provide the Tribunal with a timeline for the next sitting of the ABCC and the Applicant is concerned about further delays, the

Presiding Judge directed Counsel for the Respondent to ensure that a decision on the review be issued by Wednesday, 15 May 2024.

14. Both parties submitted the most recent decision of the ABCC to the Tribunal on 15 May 2024.

15. Specifically, the Applicant submitted

The current decision of the ABCC, was taken solely on the advice of the DMSHO. The DMSHO and specifically the Medical Director being clearly and irremediably conflicted, being at the same time *ex officio* medical advisers to the ABCC and the UNJSPF, responsible for medical clearance for staff members, settling medical standard for field missions, and directing and supervising the implementation of medical services.

16. The Applicant moved the Tribunal to lift the suspension of these proceedings and proceed to trial.

Case management

17. Having considered the parties' submissions subsequent to Order No. 31 (NBI/2024), the Tribunal hereby lifts the suspension of these proceedings.

18. The Tribunal believes that a case management discussion with the parties will facilitate further management of these proceedings.

19. The matter of *Aslam v Secretary General of the United Nations* (UNDT/NBI/2023/017) is scheduled for a case management discussion on **Tuesday, 11 June 2024 at 10:30 a.m. (Nairobi time) on MS Teams.**

(Signed)

Judge Sean Wallace

Dated this 27th day of May 2024

Entered in the Register on this 27th day of May 2024

(Signed)

Eric Muli, Legal Officer, for René M. Vargas M., Officer-in-Charge, Nairobi