



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

AO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON
THE PARTIES' JOINT MOTION
FOR FURTHER SUSPENSION
OF PROCEEDINGS PENDING
INFORMAL SETTLEMENT
DISCUSSIONS**

Counsel for Applicant:

George G. Irving

Counsel for Respondent:

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

Introduction

1. On 6 September 2023, the Applicant, a Close Protection Officer at the United Nations Support Office in Somalia, filed an application before the Dispute Tribunal contesting the 31 January 2023 decision of Senior Security Management Officials to temporally withdraw his service weapon pending the “assessment by the Chief Medical Officer and any subsequent assessors”.
2. On 9 May 2024, the Tribunal issued Order No. 51 (NBI/2024) directing the Applicant to file a rejoinder by 5 June 2024, and the parties to explore the possibility of resolving the dispute amicably, instructing them to revert to the Tribunal in this respect by 12 June 2024.
3. On 31 May 2024, the parties filed a joint motion seeking suspension of the proceedings in this case until 12 July 2024 “to continue to engage in ... informal discussions”. The Tribunal granted this motion on 3 June 2024.
4. On 9 July 2024, the parties filed a second joint motion seeking further suspension of proceedings until 11 August 2024 “to continue to engage in ... informal discussions”. The Tribunal granted this motion on 17 July 2024 by Order No. 88 (NBI/2024). The proceedings were further suspended during the parties’ informal settlement discussions until 12 August 2024.
5. In said Order, the Tribunal directed the Applicant to file a rejoinder by 19 August 2024 if no settlement agreement was reached.
6. On 12 August 2024, the parties filed another joint motion seeking a further suspension of proceedings until 30 September 2024 on the grounds that they have been “engaged in discussions but feel at this point they would benefit from mediation through the Ombudsman”. The parties also informed the Tribunal that the Applicant has surgery scheduled this month.

Consideration

7. The Tribunal supports efforts to resolve disputes through amicable settlement. However, this is the third joint motion to suspend proceedings for purposes of settlement. Given that settlement discussions have been reported to be occurring for months now, the parties do not appear to be actively and seriously pursuing a resolution.

8. The contested decision was taken on 31 January 2023, yet, for the first time, the parties are entertaining mediation through the United Nations Office of the Ombudsman and Mediation Services (“UNOMS”). UNOMS has been available for the past year and one-half since the contested decision was taken had the parties wished to avail themselves of its mediation services.

9. The parties may still pursue mediation with UNOMS and are directed to notify the Tribunal if a settlement is reached. Nonetheless, as noted in Order No. 88 (NBI/2024), the Tribunal is not inclined to entertain any further requests for suspension of proceedings to pursue settlement.

10. Additionally, it would not seem that the Applicant’s scheduled surgery should impact his Counsel’s ability to file the rejoinder by the date previously ordered. If that is incorrect, then Counsel can seek a brief extension of the deadline for filing a rejoinder.

Conclusion

11. In view of the foregoing, it is ORDERED THAT:

- a. The joint motion for further suspension of proceedings pending informal settlement discussions is denied;
- b. The Applicant’s rejoinder remains due by **Monday, 19 August 2024**; and

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Order No. 105 (NBI/2024)

c. The parties are to appear for a case management discussion on **Tuesday, 27 August 2024 at 2 p.m.** (Nairobi time).

(Signed)

Judge Sean Wallace

Dated this 14th day of August 2024

Entered in the Register on this 14th day of August 2024

(Signed)

René M. Vargas M., Officer-in-Charge, Nairobi