



Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Hafida Lahiouel

HAMID

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON EXTENSION OF TIME

Counsel for Applicant:
Nicole Washienko, OSLA

Counsel for Respondent:
H. Esther Shamash, UNDP

Introduction

1. On 11 February 2016, the Applicant, a former D-2 level staff member of the United Nations Development Programme (“UNDP”) in New York, filed an application contesting the following three administrative decisions:

a. to abolish her post of Director and Chief Technology Officer (“CTO”) in UNDP’s Office for Information Systems and Technology as a result of restructuring and reclassification processes (the “abolishment decision”);

b. to “require her to undergo a competitive process” for the new post of Director and CTO at the D-1 level in the Office of Information Management and Technology (“OIMT”) (the “recruitment decision”); and

c. not to select her for the post of Director and CTO, OIMT (the “selection decision”).

2. The Applicant seeks compensation for pecuniary loss in the amount of two years’ net base salary, as well as compensation for “moral injury” in the amount of 12 months’ net base salary.

3. The Respondent filed his reply on 14 March 2016, submitting that the contested decisions were lawful and that the Applicant’s claims are without merit.

4. This case was assigned to the undersigned Judge on 1 July 2016.

Procedural history

5. By Order No. 166 (NY/2016), dated 11 July 2016, the Tribunal directed the parties to consider informal resolution of the matter and, in the event no informal resolution was possible, file a jointly-signed submission addressing various issues by 26 July 2016. The parties were also directed to attend a case management discussion (“CMD”) on 28 July 2016.

6. On 26 July 2016, the parties submitted a joint request for an extension of time until 29 July 2016 to comply with Order No. 166 (NY/2016). The parties also confirmed that they were not in a position to resolve the dispute informally.

7. On 26 July 2016, on instructions of the undersigned Judge, the New York Registry sent an email to the parties, informing them that, in view of the joint request for an extension of time, the CMD of 28 July 2016 was adjourned. The parties were requested to confer and propose a new CMD date in the second half of August 2016.

8. On 27 July 2016, the parties proposed to hold the CMD on 19 or 22 August 2016.

9. By Order No. 183 (NY/2016), dated 28 July 2016, the Tribunal granted the requested extension of time to file the jointly-signed submission, directing the parties to file the submission by 18 August 2016 and to attend a CMD on 22 August 2016.

10. On 17 August 2016, the Applicant filed a request for a further extension of time until 26 August 2016 to finalize the parties’ jointly-signed submission. The Applicant submits that the Respondent has no objection to the requested extension of time.

Case management

11. Having considered the request of 17 August 2016, the Tribunal considers it appropriate and in the interests of a fair disposal of the case to grant the requested extension of time for the filing of the jointly-signed submission. The Tribunal will also re-schedule the CMD, so as to ensure that the parties file the relevant documents and submissions prior to the CMD taking place.

12. The Tribunal observes that, on 22 July 2016, the Tribunal (Judge Meeran) issued a judgment in the matter of *El-Kholy* UNDT/2016/102, concerning a decision of the UNDP to terminate the appointment of a permanent staff member following the abolition of her post. Although the present case concerns a staff member on a fixed-term appointment, it appears that *El-Kholy* contains some general pronouncements that may be of relevance to the present matter as well. The Tribunal expects the parties to consider the effect of *El-Kholy*, if any, in their jointly-signed submission.

13. The Tribunal reminds the parties that, at this stage of the proceedings, they are free to attempt informal resolution of the dispute. Should they decide to do so, they shall promptly inform the Tribunal of their decision.

14. Accordingly, in view of the above,

IT IS ORDERED THAT:

15. The request for an extension of time is granted.

16. By **5:00 p.m., Friday, 26 August 2016**, the parties shall file a jointly-signed submission responding under separate headings to each of the following issues. Where there is disagreement over an issue, fact or statement, the submission shall identify the parties' respective positions:

- a. A consolidated list of agreed legal issues (addressing, *inter alia*, the effect of the application of staff rule 9.6(e));
- b. A consolidated list of agreed facts in chronological order (reflecting, *inter alia*, whether the successful candidate for the contested post was a staff member of the Organization at the time of the selection exercise and, if so, the successful candidate's type of appointment (permanent, continuing, fixed-term, or temporary));
- c. A joint proposal as to the date(s) for a hearing on the merits, ensuring availability of their proposed witnesses;
- d. Lists of witnesses that the Applicant and the Respondent intend to call, confirming whether the witnesses will appear in person and providing their contact information to the Tribunal. The parties shall also include a proposed order of appearance for their witnesses;
- e. Brief statements of the evidence each party intends to elicit from their respective witnesses;
- f. A consolidated, paginated bundle of legal authority relied upon by the parties in support of their submissions, including relevant case law of the United Nations Dispute and Appeals Tribunals, as well as the full text of the applicable UNDP Programme and Operations Policies and Procedures and any other relevant administrative issuances;
- g. An agreed bundle of documents which the parties intend to rely upon at the hearing. The bundle shall contain an index of the documents contained therein, with each page of the bundle clearly paginated for ease of reference.

17. The CMD is hereby rescheduled to take place at **11:00 a.m., Tuesday, 30 August 2016.**

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 17th day of August 2016