



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

ACQUATELLA CORRALES

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Aleksandra Jurkiewicz, OSLA

Counsel for Respondent:

Susan Maddox, ALD/OHR, UN Secretariat

Matthias Schuster, ALD/OHR, UN Secretariat

Introduction

1. On 30 June 2017, the Applicant, an Economic Affairs Officer at the P-3 level, Economic Commission for Latin America and the Caribbean (“ECLAC”), on continuing appointment since 2010, filed an application contesting the decision to separate him from service on the grounds of misconduct. The Applicant requests rescission of the finding of misconduct and separation from service, reinstatement, or in the alternative, two years net-base salary based on his holding a continuing appointment. The Applicant also requests three months net-base salary for the excessive delays in the disciplinary process, as well as three months net-base salary for procedural defects.

2. On 28 July 2017, the Respondent filed his reply submitting that the application is without merit and should be dismissed, *inter alia*, because the Applicant submitted documents that contained false information about his marital status, on the basis of which he received benefits for a dependent spouse, and to which he was not entitled.

3. On 1 July 2019, the case was reassigned to the undersigned Judge.

4. On 16 September 2019, pursuant to Order No. 118 (NY/2019), the parties filed a joint submission setting out, *inter alia*, the agreed and disputed facts in the case. In the joint submission the Applicant requested leave to produce additional written evidence in the form of the Venezuelan Code of Civil Procedure to show that no notification of the divorce decree was issued to him or to his legal representative. The Respondent stated that he had no objection to the request. The Applicant further requested a hearing in the case and the Respondent stated that he had no objection to the request. The Applicant proposed to provide testimony as to his knowledge of the divorce pronouncement at the relevant time and call Ms. Maria Fatima da Acosta, the Applicant’s lawyer, as a witness, in order to provide testimony regarding legal advice procured to the Applicant in 2009 and whether she notified the Applicant regarding the divorce pronouncement at the relevant time. The Respondent proposed to call Ms.

Gisela Rementeria, the Applicant's former wife, as a witness in order to provide testimony, *inter alia*, about the initiation of the divorce proceedings, the handling of the matter by the attorneys, how she learned about the divorce, the support she received from the Applicant and her communications with the Applicant following the initiation of the divorce proceedings as regards all matters related to the divorce. Neither party had objections to the proposed witnesses of the other party. The parties further informed the Tribunal that they have not agreed to enter into negotiations or otherwise seek informal resolution of the matter.

5. Having considered the parties' submissions, pursuant to art. 19 of the Dispute Tribunal's Rules of Procedure and for a fair disposal of the case,

IT IS ORDERED THAT:

6. The Applicant's request to produce additional evidence is granted. **By 4:00 p.m. on Wednesday, 2 October 2019**, the Applicant is to file a copy of the provisions of the Venezuelan Code of Civil Procedure he intends to rely on, together with submissions on the relevance of the evidence;

7. The Applicant's request for a hearing is granted;

8. The following persons shall testify at the hearing: (i) the Applicant; (ii) Ms. Maria Fatima da Acosta; and (iii) Ms. Gisela Rementeria; and

9. **By 4:00 p.m. on Wednesday, 2 October 2019**, the parties are to file a jointly signed statement providing proposed hearing date for a one-day hearing on 20, 22, 25 or 26 November 2019 together with:

- a. A confirmation of the availability of each proposed witness;
- b. Whether the parties request a Spanish language interpreter to be made available for any of the witnesses;

- c. In the event some witness appearances are to occur remotely, a proposed time, taking into account the possible time difference between the New York time zone and the zone where the proposed witness(es) is/are located; and
- d. In the event either party intends to refer their witnesses to any documents, that party shall prepare a *paginated* bundle of documents (together with English translations if applicable) it intends to refer to at the hearing. This bundle shall be filed through the eFiling portal at least one week prior to the hearing.

(Signed)

Judge Joelle Adda

Dated this 18th day of September 2019