



Before: Judge Eleanor Donaldson-Honeywell

Registry: New York

Registrar: Nerea Suero Fontecha

GHAMEN-ALI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Nicole Wynn, ALD/OHR, UN Secretariat
Nusrat Chagtai, ALD/OHR, UN Secretariat

Introduction

1. On 13 November 2017, the Applicant, a staff member at the P-5 level with the United Nations Support Mission in Libya (“UNSMIL”), filed an application to contest the Administration’s “calculation of mobility entitlements”. The case was initially filed with the Nairobi Registry.

2. On 15 December 2017, the Respondent filed his reply in which he submits that the application is without merit.

3. On 19 July 2019, the case was transferred to the New York Registry, and on 16 December 2019, it was reassigned to the undersigned Judge.

Consideration

4. The Tribunal notes that the issue of the present case appears to be whether the Administration correctly calculated the Applicant’s mobility allowance entitlement under staff rule 3.13 and ST/SGB/2011/1 (Mobility and hardship scheme), the then applicable administrative instruction, relating to his assignments between 2011-2013. The Applicant also challenges the delay in processing the payment for his mobility allowance entitlement.

5. In particular, the Tribunal notes that he contests the Administration’s decision not to include the following two assignments as countable assignments for the purpose of the calculation of his mobility allowance entitlement, namely:

a. His assignment with the United Nations Office on Drugs and Crime (“UNODC”) in Cairo, Egypt from 21 August 2011 to 31 March 2012; and

b. His assignment with UNSMIL in Tripoli, Libya from 1 April 2012 to 30 June 2013.

6. Section 2.5 of ST/SGB/2011/1 provides that the term “assignment” for the calculation of mobility allowance means “either the appointment of a staff member to

a duty station or transfer of a staff member to a new duty station for a period of one year or longer”. At para. 4, VII. summary of the facts of the application, the Applicant states that the period spent in Cairo will not to be counted and he does not contest it. He admits that the period in Cairo was less than one year, however his concern is with the impact of not counting the same on his entitlements for the subsequent period in Tripoli where he was assigned by UNSMIL after his assignment in Cairo with the UNODC.

7. The Tribunal notes that, with regard to the Applicant’s assignment in Cairo, Egypt from 21 August 2011 to 31 March 2012, he submits that, while this assignment lasted less than one year, it should count for the calculation of mobility allowance under sec. 2.5(b) of ST/SGB/2011/1, which provides that:

(b) If a staff member is assigned to a duty station for a period of one year or longer and such time is subsequently reduced at the initiative of the Organization to less than one year, such service may be counted as an assignment on an exceptional basis.

8. The Applicant submits that his assignment in Cairo, Egypt was “reduced at the initiative of the Organization to less than one year” because senior management of the UNODC decided to nominate him for a position with UNSMIL in Tripoli, Libya on a secondment basis and asked him to send his resume to them. To support his claim, he submitted a copy of email exchanges with his senior managers.

9. The Tribunal notes that while the Respondent argues that the Applicant applied for a position in Tripoli, Libya, and therefore the duration of his Cairo assignment was not reduced at the initiative of the Organization, he has not specifically responded to the Applicant’s claim in relation to the above email exchanges submitted by the Applicant.

10. The Tribunal further notes that while the mobility review sheet shows which assignments were counted for the calculation of the Applicant’s mobility allowance entitlement, the Tribunal has no record of the documents showing the terms of reference of each assignment mentioned in the mobility review sheet, such as letters

of appointment, which may be needed to determine the nature of each assignment in question.

11. The undersigned Judge notes that as her current term with the Dispute Tribunal is limited to three months, the parties will be required to strictly cooperate with observing the deadlines set out in the Tribunal's orders.

12. In light of the above,

IT IS ORDERED THAT:

13. By **4:00 p.m. on Friday, 27 December 2019**, the Respondent shall:

a. Provide documents showing the terms of reference of each assignment mentioned in the mobility review sheet, such as letters of appointments;

b. Respond to the Applicant's claim that his assignment in Cairo, Egypt was reduced at the initiative of the Organization to less than one year and provide supporting documentation, if not already submitted to the Tribunal.

14. The Tribunal will thereafter consider the information provided and give further case management directions as to the identification of issues, the process to be used for determination and any other issue that may arise.

(Signed)

Judge Eleanor Donaldson-Honeywell

Dated this 17th day of December 2019