



Before: Judge Joelle Adda
Registry: New York
Registrar: Nerea Suero Fontecha

KOLLIE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

A. Ndubuisi Nwabudike

Counsel for Respondent:

Steven Dietrich, ALD/OHR, UN Secretariat

Introduction

1. The Applicant, a staff member with the United Nations Mission in Liberia (“UNMIL”), contests the Secretary-General’s decision accepting the recommendation of the Advisory Board on Compensation Claims (“ABCC”) awarding USD30,412.29 for a 28 percent permanent loss of function of the whole person under art. 11.3(c) of the Appendix D to the Staff Rules (“Appendix D”). The Applicant claims that he is entitled to compensation at a higher level as well as other remedies. The application was initially filed with the Nairobi Registry on 2 October 2017.

2. On 19 July 2019, the case was transferred to the New York Registry, and on 21 November 2019, it was reassigned to the undersigned Judge.

Consideration

3. It is not disputed that the Applicant’s injury sustained on 9 May 2007 is service-incurred as decided based on the ABCC’s recommendation in 2012. The issue for the Tribunal is whether the Secretary-General’s decision on the compensation payment for his injury is correct or whether he is entitled to additional compensation payments.

4. The Tribunal notes that art. 3 of the Appendix D provides that “[t]he compensation payable under these rules shall be the sole compensation to which any staff member or his dependents shall be entitled in respect of any claim falling within the provisions of these rules”. Article 4 provides that “[c]ompensation awarded under these rules is intended to supplement benefits awarded under the Regulations of the Joint Staff Pension Fund”. The compensation payments in the event of an injury or illness of a staff member are set forth in arts. 11.1-11.5 of the Appendix D.

5. Having reviewed the parties’ submissions, the Tribunal considers it necessary to obtain further information or documentation from the parties. In particular,

- a. The Applicant's email of 30 July 2017 (Annex 12 of the reply) states that he received the ABCC's reply of 25 July 2017 and the addendum of 27 July 2017, but the addendum of 27 July 2017 cannot be found in the case file;
- b. The Applicant submits in the application that the contested decision was made on 24 August 2017 and notified to him on 25 August 2017, but such decision and notification in August 2017 cannot be found in the case file;
- c. The ABCC's recommendation of 20 April 2017 (Annex 8 of the reply) shows the calculation method used by the ABCC to calculate the compensation for a 28 percent permanent loss of function of the whole person under art. 11.3(c), but it is not clear where such calculation method was derived from. The Tribunal notes that art. 11.3(c) of the Appendix D provides that "In the case of General Service personnel, manual workers and locally recruited mission personnel ... appropriate adjustments in the amount of compensation provided for in this schedule may be made by the Secretary-General, taking into account the proportion which the staff member's salary or wage bears to Headquarters rates" but it does not provide any precise adjustment methodology;
- d. The Applicant asked for the payment of all out-of-pocket medical expenses that had been supposedly approved by the Medical Services Division ("MSD") in his request of 7 June 2017 (Annex 10 of the reply), but the Tribunal cannot find any response from the ABCC to this request in the case file;
- e. The ABCC asked the MSD in the memorandum of 15 December 2016 (Annex 6 of the reply) whether the Applicant's permanent loss of function constitutes partial or total disability, but the MSD's memorandum dated 18 January 2017 (Annex 7 of the reply) does not seem to address this question as to whether the Applicant's injury resulted in partial or total disability;

f. The Applicant asked for award of disability pension in his request of 7 June 2017 (Annex 10 of the reply), but the Tribunal cannot find any information in the case file as to whether he was considered for and/or awarded any benefits under the Regulations of the Joint Staff Pension Fund;

g. In the Applicant's submission of 26 June 2018, the Applicant submitted that he would be separated from the Organization on 30 June 2018. The Tribunal does not have information on the current employment status of the Applicant and when he was separated if this is the case.

6. In light of the above,

IT IS ORDERED THAT:

7. By **4:00 p.m. on Monday, 20 January 2020**, the Respondent shall:

a. Provide a copy of the ABCC's addendum of 27 July 2017 provided to the Applicant;

b. Provide a copy of the ABCC's decision and notification to the Applicant in August 2017;

c. Explain the calculation method used to calculate the compensation for a 28 percent permanent loss of function of the whole person under art. 11.3(c) included in the ABCC's recommendation of 20 April 2017 and provide any rules and regulations concerning such calculation method, if not already submitted to the Tribunal;

d. Confirm if the ABCC considered and made a recommendation on the Applicant's request for the payment of all out-of-pocket medical expenses that had been supposedly approved by the MSD and provide supporting documentation, if not already submitted to the Tribunal;

- e. Confirm if the ABCC considered and made a recommendation as to whether the Applicant's injury constitutes partial or total disability under art. 11. 1 and 11.2 of the Appendix D and provide supporting documentation, if not already submitted to the Tribunal;
- f. Confirm if the Applicant was considered for and/or awarded any benefits under the Regulations of the Joint Staff Pension Fund and provide supporting documentation, if not already submitted to the Tribunal;
- g. Confirm the Applicant's current employment status and information about his separation, if this is the case, and provide supporting documentation, if not already submitted to the Tribunal.

(Signed)

Judge Joelle Adda

Dated this 10th day of January 2020