



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2017/064

Order No.: 48 (NY/2020)

Date: 9 March 2020

Original: English

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

Dorota Banaszewska, OSLA

Counsel for Respondent:

Susan Maddox, 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, filed an application contesting the decision to separate him from service on the grounds of misconduct.
2. On 16 September 2019, pursuant to Order No. 118 (NY/2019), the parties filed a joint submission in which the Applicant requested a hearing in the matter.
3. By way of Order No. 135 (NY/2019)/Corr.1, the Tribunal ordered the parties to attend a hearing on 20 November 2019.
4. On 15 November 2019, the Applicant's Counsel filed a motion to adjourn the hearing, submitting that she has been unable to contact the Applicant and confirm his presence during the upcoming hearing.
5. By way of Order No. 164 (NY/2019), the Tribunal granted the motion to adjourn the hearing and ordered the parties to attend a hearing on 19 December 2019.
6. On 6 December 2019, the Applicant filed a submission confirming his attendance at the 19 December 2019 hearing.
7. On 13 December 2019, the Applicant's Counsel filed a motion to adjourn the hearing to an alternate date after 20 March 2019. The Applicant's counsel submitted that the Applicant's mental health state has significantly deteriorated over the preceding week and it will be impossible for him to appear before the Tribunal within the next three months.
8. By way of Order No. 179 (NY/2019), the Tribunal granted the Applicant's Counsel's second motion to adjourn the hearing and ordered the

parties to attend a half day hearing in the week of 30 March to 3 April 2020. The Tribunal further ordered the Applicant's counsel to file a submission informing the Tribunal by 9 March 2020 whether the Applicant is able to appear at the hearing the week of 30 March 2020. In the event the Applicant is not able to appear, the Tribunal ordered that the submission should confirm whether, in the circumstances, the hearing may go ahead in order to hear only the testimony of Ms. Fatima Da Acosta, or if the case may be decided on the papers.

9. On 9 March 2020, the Applicant's Counsel filed a third motion to adjourn the hearing. The Applicant's counsel submitted that despite having made numerous attempts to contact the Applicant via e-mail and phone, she has not heard back from him. The Applicant's Counsel was therefore unable to confirm the Applicant's availability for the hearing. The Applicant's Counsel further submitted that it is in the interest of justice for the Applicant to have an opportunity to appear before the Tribunal in person and have his testimony heard.

Consideration

10. At the date of this Order, the Applicant's Counsel has made three motions for adjournment of the hearing dated 15 November 2019, 13 December 2019 and 9 March 2020. The Tribunal notes that the Applicant himself requested the hearing on 16 September 2019. It is now for the second time that the Applicant's Counsel requests accommodation for her client due to her being unable to make contact with the Applicant, notwithstanding of her numerous efforts to reach him. It follows that the Applicant's Counsel has had no instructions in respect to the conduct of this case.

11. The Dispute Tribunal has on several occasions pronounced the principle of procedural law that the right to institute and pursue legal proceedings is predicated upon the condition that the person exercising this right has a legitimate interest in initiating and maintaining legal action and that access to the court has to be denied to those who are no longer interested in the proceedings or are no longer in need of judicial remedy (*Bimo and Bimo* UNDT/2009/061, *Saab-Mekkour* UNDT/2010/047).

12. In light of the above

IT IS ORDERED THAT:

13. **By 4:00 p.m. on Monday, 16 March 2020**, the Applicant shall file a submission indicating whether he maintains his claims, and if so, why he failed to file a submission pursuant to Order No. 179 (NY/2019).

14. In the event that the Applicant further fails to comply with the Tribunal's Order, this application may be dismissed for want of prosecution.

(Signed)

Judge Joelle Adda

Dated this 9th day of March 2020