



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON MOTION FOR EXTENSION OF
TIME TO FILE AN APPLICATION**

AND

ON REQUEST FOR ANONYMITY

Counsel for Applicant:
Endah Ayuningsih Indini, OSLA

Counsel for Respondent:
UNOG

Introduction

1. On 4 September 2021, the Applicant filed a motion for extension of time to file an application before the Dispute Tribunal in respect of a decision concerning his claim for compensation under Appendix D to the Staff Rules (“Appendix D”).

Factual background

2. In February 2016, the Applicant filed a claim for compensation under Appendix D following an accident that occurred in November 2015.

3. On 9 June 2021, the Applicant received a memorandum from the Compensation Claims Unit of the United Nations Office at Geneva (“UNOG”) regarding his claim for compensation.

4. On 5 August 2021, the Applicant filed a request for management evaluation with respect to the 9 June 2021 memorandum.

5. On 4 September 2021, the Applicant filed the present motion for extension of time to file an application.

Considerations

6. Article 8.3 of the Dispute Tribunal’s Statute provides that the Dispute Tribunal “may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases”. Article 7.5 of the Dispute Tribunal’s Rules of Procedure reiterates that in exceptional cases an applicant may request a suspension, waiver or extension of the time limits for filing an application. Article 7.5 further states that any such request shall succinctly set out the exceptional circumstances that, in the view of the applicant, justify the request.

7. In *Gelsei* 2020-UNAT-1035, the Appeals Tribunal held that if an applicant requests a suspension, waiver or extension of the time limits, then an applicant bears the burden to prove “any circumstances beyond [her/his] control that would have the effect of preventing him from acting within the statutory time limits” (para. 30). The Appeals Tribunal stated that the circumstances should meet “the test of untypicality or unusualness” (para. 34).

8. In this case, the Applicant submits that since the memorandum of 9 June 2021 is ambiguous, he requested clarification from the Administration in July 2021 and yet has not received any response. The Applicant argues that the lack of clarity on the meaning of the memorandum and the Administration’s failure to clarify are exceptional circumstances of the case.

9. The Applicant further submits that it is not clear whether the impugned decision is considered a decision taken on the advice of a technical body and therefore can be appealed without management evaluation. He submits that if such is the case, granting his request for extension would be necessary to avoid any further confusion.

10. The Tribunal finds that the Applicant fails to present any circumstances beyond his control that would prevent him from acting within the statutory time limits.

11. It appears that the Applicant is confused about the legal nature of the memorandum of 9 June 2021, but this is not a valid basis to grant a request for extension. The issues raised by the Applicant are legal questions which the Tribunal may only determine in the course of a properly instituted judicial proceeding.

12. Therefore, the Tribunal finds that the Applicant failed to present any exceptional circumstances to justify his request for extension of deadline to file an application and therefore the request is rejected.

13. The Tribunal also notes that the Applicant requests anonymity on the basis that the case concerns his medical information. To protect personal data under art. 11.6 of the Dispute Tribunal's Statute and art. 26 of its Rules of Procedure, the Applicant's request for anonymity is granted.

IT IS ORDERED THAT:

14. The Applicant's motion for extension of time to file an application is denied.

15. The Applicant's motion for anonymity is granted.

(Signed)

Judge Joelle Adda

Dated this 7th day of September 2021