



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

ARVIZU TREVINO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON
RECEIVABILITY**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Alan Gutman, ALD/OHR, UN Secretariat
Clémentine Foizel, ALD/OHR, UN Secretariat

Introduction

1. The Applicant, a former Chief Executive Officer of the United Nations Joint Staff Pension Fund (“UNJSPF”), contests the United Nations Controller’s decision of 30 December 2020 “to deny him a compensation claim” under Appendix D of the Staff Regulations and Rules.

2. The Respondent contends that the application is not receivable, because the Applicant has “already challenged the outcome of his request for compensation under Appendix D in Case No. UNDT/NY/2020/042 (Arvizu Trevino),” and the Application “is therefore barred by the doctrine of *lis pendens*”. In any event, the Respondent submits that the application is without merit.

3. For the reasons set out below, the application is receivable.

Facts

4. In the Dispute Tribunal’s judgment in *Arvizu Trevino* UNDT/2022/001 dated 5 January 2022, it was held that the Applicant’s appeal in Case No. UNDT/NY/2020/042 was not receivable and his application in that case was therefore rejected.

Consideration

5. The Respondent’s claim that the application in the present case is not receivable is based on the doctrine of *lis pendens* according to which an issue is not receivable in one case if it is concurrently also being considered in another case pending before the Dispute Tribunal (see, for instance, the Appeals Tribunal in *Haroun* 2017-UNAT-720, para. 27).

6. In the present case, the Respondent submits that the issue of the Controller denying the Applicant’s claim for alleged work-related illness upon the

recommendation of ABCC is already being considered by the Dispute Tribunal in Case No. UNDT/NY/2020/042.

7. As stated above, the Tribunal rejected the application in Case No. UNDT/NY/2020/042 in its judgment, *Arvizu Trevino* UNDT/2022/001, as not receivable. Since that previous case is no longer pending, the application in the present case cannot be declared non-receivable under the doctrine of *lis pendens*. This is also recognized by the Respondent in his final submissions on receivability of 21 October 2021 (para. 8).

8. In light of the above,

IT IS ORDERED THAT:

9. The application is receivable.

(Signed)

Judge Joelle Adda

Dated this 5th day of January 2022