



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/007/T

Order No.: 080 (NY/2023)

Date: 11 September 2023

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

DIOUF NDIAYE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON CASE MANAGEMENT

Counsel for Applicant:

Shubha Suresh Naik, OSLA

Counsel for Respondent:

Adrien Meubus, UNOG

Introduction

1. The Applicant is the widow of a deceased staff member. By application filed on 8 March 2023, she contests the decision of the Advisory Board on Compensation Claims (“ABCC”), endorsed by the United Nations Controller, to deny her claim under Appendix D of the Staff Regulations and Rules for compensation in respect of the death of her husband, which she claims is service-incurred. In addition, the Applicant seeks “damages relating to the delay in reaching a decision by the ABCC” and “requests the Tribunal to refer the issue to the Secretary-General for possible investigation and accountability”.

2. On 22 March 2023, the Respondent filed a motion requesting that, “in the interests of fairness and judicial economy, the Tribunal determines the receivability [of the application] as a preliminary matter pursuant to Articles 9 and 19 of the Tribunal’s Rules of Procedure” and “without regard to the merits of the case”. The Respondent also requested the suspension of the deadline for filing his reply.

3. Via email dated 28 March 2023, the Registry notified the parties that the Duty Judge had decided to suspend the deadline for the filing of the Respondent’s reply until the case was assigned to a Judge who would then consider the Respondent’s motion on receivability as a preliminary matter.

4. The case was assigned to the undersigned Judge on 31 August 2023.

Considerations

5. The Appeals Tribunal has consistently held that “the Dispute Tribunal has the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review”. The Appeals Tribunal further held that when defining the issues of a case, “the Dispute Tribunal may consider the application as a whole”. See *Fasanella* 2017-UNAT-765, para. 20, as affirmed in *Cardwell* 2018-UNAT-876, para. 23. Accordingly, the Tribunal will examine all aspects of the application in deciding on the receivability.

6. Pursuant to art. 19 of the Rules of Procedure of the Dispute Tribunal, the Tribunal may at any time issue any order or give any direction which appears to be appropriate for the fair and expeditious disposal of a case and to do justice to the parties.

7. Having examined the Respondent's motion on receivability, the Tribunal considers that it is in the interests of justice to grant the Applicant the opportunity to file submissions in response to the said motion before the matter of receivability is decided.

8. In light of the above,

IT IS ORDERED THAT:

9. By **4:00 p.m. on Monday, 25 September 2023**, the Applicant is to file a response to the Respondent's submissions on receivability at a maximum of five pages, using Times New Roman font, at 12 points and 1.5 line spacing.

10. Upon receipt of the above-referred submission, the Tribunal will issue the relevant instructions for further case management.

(Signed)

Judge Joelle Adda

Dated this 11th day of September 2023

Entered in the Register on this 11th day of September 2023

(Signed)

Isaac Endeley, Registrar, New York