



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/029
Order No.: 065 (NY/2024)
Date: 11 June 2024
Original: English

Before: Judge Margaret Tibulya

Registry: New York

Registrar: Isaac Endeley

HANNINA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Manuel Calzada

Counsel for Respondent:

Halil Göksan, AS/ALD/OHR, UN Secretariat

Introduction

1. On 2 September 2023, the Applicant, Chief of Mission Support, United Nations Support Mission in Libya (“UNSMIL”), (at the D-1 level), filed an application contesting the decision of the Special Representative of the Secretary-General for Libya and Head of Mission, UNSMIL (“SRSG”) to place her on administrative leave with pay (“ALWP”), dated 19 April 2023.

2. On 5 October 2023, the Respondent filed his reply contending that the application is meritless. The Respondent submitted that the SRSG’s decision to place the Applicant on ALWP was lawful, reasonable, and proportionate.

3. On 1 April 2024, the case was assigned to the undersigned Judge.

4. On 9 April 2024, a case management discussion (“CMD”) was held remotely via MS Teams to discuss the case. At the CMD, the parties requested to make further submissions on the need for an oral hearing in this matter and any witness evidence to be adduced.

5. On 11 April 2024 the Tribunal issued Order No. 045 (NY/2024) Corr.1 directing, *inter alia*, the Applicant to submit whether she requests an oral hearing in this matter and to call witnesses, and if so, state the identity of the witness(es) she wishes to call, if any, and what disputed fact(s) each of these witnesses is to give testimony about.

6. In a submission dated 25 April 2024 the Applicant requests an oral hearing in this matter and to call four witnesses. The Applicant states that the examination of the witnesses “is necessary to clarify the facts relied upon by the Respondent that formed the basis of his decision to place the Applicant on ALWP, and which have not been addressed in any of the written pleadings and submissions of the Respondent”.

7. On 8 May 2024, the Respondent filed his response to the Applicant’s submission dated 25 April 2024. The Respondent states that he opposes the Applicant’s request for an oral hearing. The Respondent submits that a hearing

would not be in the interest of justice and would not assist the Tribunal in the expeditious and fair adjudication of the case.

Consideration

8. The Tribunal notes that the very purpose of producing oral evidence is to substantiate the specific relevant facts on which the parties disagree. Therefore, there is only a need for evidence if a fact is disputed and relevant (see *Abdellaoui* 2019-UNAT-929, para. 29, and *El-Awar* 2019-UNAT-931, para. 27).

9. The Appeals Tribunal has held that it is only necessary to hear witnesses if the relevant facts are unclear or the dispute of facts is irreconcilable (see *Abdellaoui* 2019-UNAT-928, para. 19, *AAC* 2023-UNAT-1370, para. 40, and *AAO* 2023-UNAT-1361, para. 52).

10. The Applicant proposes four witnesses, namely AB, AC, HR and the Applicant. In her submission dated 25 April 2024, the Applicant states that the witnesses are “required to explain their actions, recommendations, rationales and motives concerning the disputed decision”. The Applicant, however, fails to specify which unclear or disputed facts each of the proposed witnesses would testify to. Instead, the Applicant states that the examination for each witness “should focus on [...] important matters of fact and law.”

11. Under the referenced jurisprudence of the Appeals Tribunal, the Tribunal finds that there is no reason to call AB, AC, HR and the Applicant to provide testimony as witnesses before the Tribunal. The Applicant’s requests for hearing any of these witnesses are therefore rejected. The Tribunal agrees with the Respondent that the case record is comprehensive and there is no irreconcilable dispute of facts between the parties. The Applicant has not satisfied the Tribunal that this is any need for an oral hearing in this case.

12. Accordingly, the Tribunal finds that the present case is ready for adjudication on the papers before it in accordance with the schedule of closing statements set out below.

IT IS ORDERED THAT:

13. The Applicant's requests for an oral hearing in this case and to call AB, AC, HR and the Applicant to provide testimony as witnesses before the Tribunal are rejected.

14. By **12:00 p.m. on Friday, 21 June 2024**, the Applicant is to file her closing statement, which is to be five pages maximum, using font Times New Roman, font size 12 and 1.5 line spacing. The closing statement is solely to be based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage.

15. By **12:00 p.m. on Friday, 28 June 2024**, the Respondent is to file his closing statement responding to the Applicant's closing statement at a maximum length of five pages, using font Times New Roman, font size 12 and 1.5 line spacing. The closing statement is solely to be based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage.

16. By **12:00 p.m. on Wednesday, 3 July 2024** the Applicant may file a statement of any final observations responding to the Respondent's closing statement. This statement of final observations by the Applicant must be a maximum of three pages, using font Times New Roman, font size 12 and 1.5 line spacing. It must be solely based on previously filed pleadings and evidence, and no new pleadings or evidence are allowed at this stage.

Signed

Judge Margaret Tibulya

Dated this 11th day of June 2024

Entered in the Register on this 11th day of June 2024

Signed

Isaac Endeley, Registrar, New York