



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2022/064
Order No.: 037 (NBI/2023)
Date: 14 February 2023
Original: English

Before: Judge Francesco Buffa

Registry: Nairobi

Registrar: Abena Kwakye-Berko

GUIMARAES

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:
Julia Kyung Min Lee, OSLA

Counsel for the Respondent:
Nicole Wynn, AS/ALD/OHR, UN Secretariat
Fatuma Mninde Silungwe, AS/ALD/OHR, UN Secretariat

Introduction

1. On 28 July 2022, the Applicant, a Movement Control Officer with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, (“MONUSCO”), Goma, filed an application contesting the decision to remove her from the position of Chief of Joint Movement Coordination Centre (“JMCC”) and to reassign her as Bonded Warehouse Supervisor. The Applicant seeks rescission of the contested decision and compensation for moral injury caused by the reassignment.

2. On 29 August 2022, the Respondent filed his reply submitting that the contested decision was lawful and that the Applicant’s claims are without merit.

3. This case was assigned to the undersigned Judge on 12 January 2023, for his deployment starting on 6 February 2023.

Considerations

4. Following an examination of the parties’ submissions and pursuant to art. 16 para. 2 of its Rules of Procedure, the Tribunal considers it appropriate to conduct a hearing on the merits in the present case.

5. The hearing will be held at the Nairobi Courtroom and is tentatively scheduled to take place on the following days: **27 - 28 March and 4 - 6 April for the witnesses testimonies and 11 or 14 April 2023 for the closing oral submissions.**

6. For the purpose of the hearing, taking into account in particular para. 27 of the reply, the Tribunal has preliminarily identified the following witnesses, to be called by the Applicant, if she agrees to the utility of their testimony:

- a. Ms. Odia Yewande;
- b. Mr. Tonda Rogers;
- c. Ms. Baele Myriam;

d. The General Practitioner or the Applicant's Specialist;

and the following witnesses, to be called by the Respondent, if the latter agrees in the utility of their testimony:

e. Mr. John David;

f. Mr. Opio George; and

g. Mr. Baku Amankou Philippe.

7. The Applicant may testify in her case.

8. No Case Management Discussion will be held, but the parties are allowed to request in writing additional evidence, if any, on specific facts to be evaluated.

9. The Tribunal will assess the relevance of the testimonies to be provided by the proposed witnesses, if any, for the determination of the merits of the case. The Tribunal reserves the right not to call some of the proposed witnesses if it deems that their testimonies are not relevant.

10. Unless exceptional circumstances arise, witnesses based in Nairobi or within commuting distance of Nairobi are expected to give their testimony in person in the Nairobi Courtroom, in full respect of the applicable preventive sanitary measures and security rules.

11. The Respondent is invited to take a position on the facts recalled in para. 40 of the application; if facts are not acknowledged, the Applicant can demonstrate those facts by documents or witnesses.

12. For the scheduling of the hearing, the parties are instructed to inform the Tribunal about the availability of their witnesses and about their attendance at the hearing (by them and by their witnesses) in person or remotely, specifying the Nairobi time for the connection. The parties shall also include a proposed order of appearance

for their witnesses and cooperate with the Registry to set the specific agenda of the hearings.

IN VIEW OF THE FOREGOING, THE TRIBUNAL ORDERS:

13. By Friday, 17 February 2023, (Nairobi close of business time), the parties will provide the Tribunal with their requests, if any, as specified above and with the information required.

(Signed)

Judge Francesco Buffa

Dated this 14th day of February 2023

Entered in the Register on this 14th day of February 2023

(Signed)

Eric Muli, Legal Officer, for,
Abena Kwakye-Berko, Registrar, Nairobi