



Before: Judge Francesco Buffa.

Registry: Nairobi

Registrar: Abena Kwakye-Berko

GUSAROVA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Alister Cumming, UNICEF
Chinonyelum Esther Uwazie, UNICEF

Introduction

1. The Applicant was a Human Resources Manager with the United Nations Children's Fund ("UNICEF"). She held a fixed term appointment at the P-4 level, and was based in Nairobi, Kenya.

Procedural History

2. On 15 August 2022, the Applicant filed an application before the Dispute Tribunal sitting in Nairobi to challenge the Respondent's decision to deny her claim for compensation for service-incurred illness under Appendix D to the United Nations Staff Rules. The decision was taken by the Controller of the United Nations, on behalf of the Secretary-General, after a review of the Applicant's claims and a finding by the Advisory Board on Compensation claims ("ABCC").

3. The Applicant's claim was considered and denied by the ABCC twice. The Board's first decision of 4 November 2021 was rejected by the Controller because its members held different views as to the procedural propriety of the claim. This led to the claim being reconsidered in March 2022. The Controller accepted this decision and informed the Applicant on 4 May 2022.

4. On 28 May 2022, the Applicant filed a request for management evaluation of the impugned decision.

5. The Respondent filed his reply on 16 September 2022.

6. Subsequent to the Respondent's reply, the Applicant received a decision on her request for management evaluation dated 10 October 2022. The decision, *inter alia*, states:

Please be advised that I have decided to rescind the contested decision. In addition, I have remanded your claim back to the ABCC. I accept that, as the ABCC found, you were required under Article 1.8(a) of Appendix D to provide the evidence necessary to fully support your

claim for compensation. However, I consider that the ABCC was *obliged to consider whether your illness was directly causatively related to the events you alleged or the performance of official duties*, and if so, whether you sustained any degree of permanent loss of function. *I have therefore instructed that your claim be reviewed by the ABCC with a view to making a final recommendation.* [Emphasis added]

I have not awarded you any monetary compensation. I do not consider that the ABCC unduly delayed in considering your claim. In addition, you did not produce any evidence of the harm you alleged. [...]

Given that the contested decision has been rescinded through the process of management evaluation, I would be grateful if you could advise whether you will withdraw your application.

7. On 15 October 2022, the Applicant filed further submissions before the Tribunal in a document she called ‘Comments to the Reply of the Respondent.’

8. The Applicant submits that as a result of the management evaluation, she has “to withdraw the first part of my appeal related to the request to remand the case to the ABCC.” She adds:

However, UNICEF has not awarded me any monetary compensation, as they did not consider that the ABCC *unduly delayed* in considering my claim. In addition, UNICEF stated that I did not produce any evidence of the harm I alleged. I would therefore like to proceed further with this part of my appeal. [Emphasis added]

[...]

I do not agree with UNICEF that one year is a normal period for settling ABCC claim.

Considerations and Order

9. The Tribunal has considered the Respondent’s management evaluation and the Applicant’s submission subsequent to that evaluation.

10. The parties are DIRECTED to address the Tribunal, by or before **28 February 2023**, on whether there has been any progress in the review of the Applicant’s claim by the ABCC and/or a subsequent decision by the Respondent.

Case No.: UNDT/NBI/2022/070

Order No.: 047 (NBI/2023)

(Signed)

Judge Francesco Buffa

Dated this 17th day of February 2023

Entered in the Register on this 17th day of February 2023

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi