



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2011/073

Order No.: 157 (NBI/2011)

Date: 19 December 2011

Original: English

Before: Judge Vinod Boolell

Registry: Nairobi

Registrar: Jean-Pelé Fomété

OMWENGA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON RESPONDENT'S MOTION
PURSUANT TO ARTICLE 19 OF THE
UNDT RULES OF PROCEDURE**

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
Bartolomeo Migone, WFP
Simone Parchment, WFP

Consideration

6. Article 19 of the Rules of Procedure of the Tribunal allows that it may “issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.” Article 35 of the Rules of Procedure of the Tribunal allows it to “waive any rule when the interests of justice so require.” It is therefore well within the powers of the Tribunal to grant the Respondent’s Motion.

7. The question is then whether or not the interests of justice would be served by so doing. Since the Applicant herself has filed a Motion for Waiver of Time Limits, and has stated that the decision she contests is dated 1 January 2001, it seems to the Tribunal only reasonable that the issue of the receivability of the Application should be dealt with as a preliminary issue.

8. As the Applicant is no longer in the service of the Organisation, any brief delay caused by considering this matter is unlikely to cause her any prejudice. However, the Tribunal is of the view that the Applicant should be afforded the opportunity to respond to the Respondent’s submissions on the preliminary issue of receivability, so as to ensure that any ruling made by the Tribunal, as a result of the same, should be composed with the fullest appreciation of the facts available.

IT IS ORDERED THAT:

9. The Respondent’s Motion that the receivability of the Application be considered as a preliminary issue is granted.

10. The requirements of art. 10 of the Rules of Procedure of the Tribunal are waived pending the decision of the Tribunal on the preliminary issue of receivability.

