



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/056

Order No.:

English

Before: Judge Margaret Tibulya.

Registry: Nairobi

Registrar: Abena Kwakye-Berko

BAMBA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

CASE MANAGEMENT ORDER

Counsel for the Applicant:

Julia Lee, OSLA

Counsel for the Respondent:

Matthias Schuster, AAS/ALD/OHR

Introduction

1. At the time of application, the Applicant was serving as a nurse at the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). She held a fixed-term appointment at the G-4 level, and was stationed in Bukavu.
2. The Applicant was separated from service for misconduct on 1 March 2018.
3. On 7 May 2018, the Applicant filed an application with the United Nations Dispute Tribunal in Nairobi challenging the Respondent's decision to dismiss her from service.
4. The Respondent filed his reply to the application on 8 June 2018.
5. On 4 December 2019, the Tribunal issued Order No. 205 (NBI/2019) setting this matter down for a case management discussion (CMD).

The Discussion

6. The CMD took place as scheduled on 11 December 2019.
7. The Tribunal broached the question of informal resolution of this dispute. Both Parties told the Tribunal that while they did not have express instructions on the issue, there is no real room for this matter to be mediated given the nature of the allegations and the facts in dispute.
8. The Applicant is of the firm view that an oral hearing is necessary. The Applicant will testify given that her credibility was called into question. The Applicant will also want the medical practitioners who treated the Applicant, and the investigators who interviewed her, to testify and be subject to cross-examination.
9. The Respondent believes that this matter can be decided on the papers given that what is in issue is the proportionality of the sanction imposed on the Applicant. He

does not, however, object to an oral hearing being held.

10. On the subject of witnesses and disclosure, the Applicant will be filing a motion to which the Respondent will respond.

11. The Tribunal intends to hear this matter in the week of 11 May 2020, when the undersigned Judge next deploys.

12. In light of the logistical issues facing the Tribunal in hearing the Respondent from New York, Counsel was asked to consider and explore the possibility of being physically present to attend the hearing in Nairobi. The time difference between New York and Nairobi means that the matter can otherwise only be heard between 1500-1630hrs (Nairobi time). Given the number of witnesses anticipated and the technical challenges often faced in these situations, the oral hearing of this matter could take significantly more time.

Order

13. As agreed by the Parties at the CMD, the Tribunal records the following timelines:

- a. The Applicant will file her motion by **Wednesday, 18 December 2019;**
- b. The Respondent will file his response to the motion by **Monday, 23 December 2019.**

(Signed)

Judge Margaret Tibulya

Dated this 11th day of December 2019

Entered in the Register on this 11th day of December 2019

(Signed)

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