
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/097
Order No.: 081 (NBI/2020)
Date: 29 April 2020
Original: English

Before: Judge Eleanor Donaldson-Honeywell

Registry: Nairobi

Registrar: Abena Kwakye-Berko

PARIS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:

Mohamed Abdou, OSLA

Counsel for the Respondent:

Susan Maddox, AAS/ALD/OHR, UN Secretariat

Elizabeth Gall, AAS/ALD/OHR, UN Secretariat

Introduction and Procedural History

1. The Applicant served as a Security Officer at the United Nations Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA). He held a fixed term appointment at the FS-5 level and was based in Mopti.

2. On 18 September 2018, the Applicant requested to be separated from service with compensation in lieu of notice and termination indemnity in accordance with Staff Rule 10.2(a)(viii). It is the Applicant's contention that the impugned decision is fraught with irregularities, manifestly disproportionate and is largely based on an improper assessment of the facts and circumstances of what transpired.

3. The Respondent filed his reply to the application on 18 October 2018.

The Respondent submits that the impugned decision was based on clear and convincing evidence that the Applicant committed serious misconduct in violation of staff regulations 1.2(b), 1.2(f) and 1.2(q); the MINUSMA Code of Conduct (Code of Conduct); sections 1.53 and 1.54 of the MINUSMA Code of Conduct; the Instruction on Use of Force Equipment Including Firearms of 2 May 2014 (UN Firearms Manual); and sections 3.2, 4.8.3, 4.9.1, and 4.9.10 of MINUSMA Standard Operating Procedure SOP/SEC-007/14 (Weapons and Training SOP) of August 2014 (MINUSMA Weapons and Training SOP).

4. The Tribunal held a case management discussion on 28 April 2020.

The Discussion

5. Both parties informed the Tribunal that they are amenable to this matter being resolved *inter partes*. The Tribunal encouraged the parties to embark on settlement discussions in good faith and reminded them that it would be in the interest of both the

Applicant and the Organization for this matter to be resolved without recourse to litigation.

6. There was some discussion on whether an oral hearing would be necessary. The Applicant is of the view that an oral hearing is necessary and listed the witnesses he wishes to call to testify on the facts and the inferences drawn from those facts which are disputed.

7. The Respondent is of the view that this matter can be decided on the papers as the Applicant is not seeking to adduce new evidence.

8. The Tribunal reminded the parties that the timelines set in this case must be

Orders

9. The Tribunal makes the following Orders:

- a. The parties will jointly advise the Tribunal on the status of their settlement discussions by **Friday, 8 May 2020**;
- b. The Applicant will file his list of witnesses with a summary of their intended testimony, and the purpose for which they are being called, for **Wednesday, 6 May 2020**.

10. The Tribunal commends the parties for their willingness to engage in discussions for resolution of this matter outside of the adversarial process.

