



UNITED NATIONS DISPUTE TRIBUNAL

Order No.: 106 (NY/2012)

Date: 23 May 2012

Original: English

Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

Introduction

1. On 9 December 2010, the Dispute Tribunal rendered its decision in the present case—*Jennings* UNDT/2010/213—finding that the decision not to renew the Applicant’s contract was lawful, but that there was an unreasonable delay in the rebuttal process relating to the Applicant’s performance evaluation report, for which she should be compensated. The Tribunal ordered:

The Respondent shall pay the Applicant USD6,000 as compensation for [the] emotional distress. This sum is to be paid within 60 days after the present Judgment becomes executable, during which period the US Prime Rate applicable as at that date shall apply. If the sum is not paid within the 60-day period, an additional five per cent shall be added to the US Prime Rate until the date of payment.

2. On 11 January 2011, the Applicant appealed the Dispute Tribunal’s finding that the decision not to renew her contract was lawful. However, no appeal was filed by either party with respect to the award of USD6,000 for the delay in the complsc9rd

Administration to contact her”, there being no further details provided of any efforts other than emails and telephone calls to her address. The Respondent requests the Tribunal to give “directions ... as to any additional steps [the Administration] should take to effect payment” of the amount ordered and “any other order(s) the Tribunal may deem appropriate in the circumstances”.

Consideration

5. The first matter to consider is whether I am competent to entertain the Respondent’s request, final judgment having been pronounced on 9 December 2010. The pronouncement of a final judgment by a judge does not render her *functus officio* in respect of matters accessory or consequential upon such

service, although such matters may well arise consequent upon a judgment the enforcement of which may be troublesome.

8. The Tribunal also notes art. 12.4 of its Statute, which states:

Once a judgement is executable under article 11, paragraph 3, of the present statute, either party may apply to the Dispute Tribunal for an order for execution of the judgement if the judgement requires execution within a certain period of time and such execution has not been carried out.

9. As the outstanding amount is owed to the Applicant, it would appear that, under art. 12.4 of the Tribunal's Statute, the appropriate party to file an application is the Applicant as the party in whose favour the judgment was issued. However, no application for an order for execution of *Jennings* UNDT/2010/213 has been filed. Accordingly, at the present time there is no outstanding application requiring consideration by the Tribunal.

Observation

10. As stated above, the Respondent did not appeal the award of USD6,000 to the Applicant for the delay in the completion of the rebuttal process. Accordingly, pursuant to art. 11.3 of the Statute of the Dispute Tribunal, that amount became executable at the expiration of the 45-day time limit (applicable at the time) for the filing of an appeal, i.e., after 23 January 2011 (see *Cohen* Order No. 27 (UNAT/2010), dated 24 November 2010). It would have been appropriate for the Respondent to make payment of the said sum of USD6,000 upon that portion of the Judgment having become executable. However, no payment was made at the time and it appears that no attempts to execute that portion of the Judgment were made until July 2011, approximately seven months after it became executable. It is likely that, had the Respondent acted timeously, the present situation would have been avoided.

IT IS ORDERED THAT:

11. The request for directions is dismissed.

12. In the event of a dispute arising between the Applicant and the Respondent regarding the payment of the judgment sum and any related interest, the matter will be dealt with by the Tribunal upon the filing of a proper application by the Applicant at the material time.

(Signed)

Judge Ebrahim-Carstens