



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

RIXEN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

Christopher Bollen, Byrne-Sutton Bollen Kern

Counsel for Respondent:

Daniel Trup, WMO

Introduction

1. The Applicant joined the World Meteorological Organization (“WMO”) Secretariat in August 2011 to work for the World Climate Research Program (“WCRP”) as a P5 Senior Scientific Officer under a two-year fixed-term appointment (“FTA”). The Applicant’s FTA was renewed several times and the latest expired on 31 August 2021.
2. On 8 June 2020, the Head of Human Resources, WMO, informed the Applicant that, in the framework of the WMO restructuring exercise, his post was going to be abolished effective 30 September 2020.
3. On 3 September 2020, the Secretary-General approved a delay of the Applicant’s separation until 31 December 2020. On 24 November 2020, another delay was agreed until 31 March 2021, and, lastly, on 4 February 2021, the separation was delayed until 31 May 2021.
4. On 22 March 2021, the Head, WCRP Secretariat announced via email that a new P3 staff member would be entering into duty on 23 May 2021 and that the Applicant would end his service on 31 May 2021.
5. On 24 March 2021, the Applicant informed WMO that he was not interested in any further delay to his separation. Accordingly, he expected his separation date and associated formalities to remain 31 May 2021, as previously agreed.
6. On 25 March 2021, the Head of Human Resources, WMO, informed the Applicant that the decision to terminate his contract had been rescinded and that his FTA would run until its original expiration date, i.e., 31 August 2021. This is the “contested decision”.
7. On 14 April 2021, the Applicant requested administrative review of the contested decision.
8. On 29 July 2021, the Applicant filed the current application contesting the decision to not terminate his appointment at the agreed date, but rather to extend it until the end of his FTA, resulting in him not qualifying for termination indemnity.

9. On 11 August 2021, the Respondent filed his reply.

10. On 19 August 2021, the Applicant filed a motion requesting leave to file comments on the Respondent's reply and to produce further evidence.

Consideration

The Applicant's pending motion

11. The Applicant's motion for leave to file comments on the reply is granted.

12. With respect to the motion for the production of evidence, the Tribunal notes that the Respondent submitted annex J with his reply. It contains a redacted email communication between the Applicant and the Senior Director and Human Resources Officer, in which the Applicant expressed his intention of not accepting a further delayed separation beyond 31 May 2021. According to the Applicant, he did not receive a response but only the contested decision on the following day.

13. In this context, the Applicant claims that the redacted parts of annex J might contain relevant information indicating that WMO was aware of and recognized the Applicant's intentions despite not having acknowledged it.

14. Having examined the parties' submissions, the Tribunal finds that it can only decide on the relevance of annex J after its proper review.

15. As a result, the Respondent is instructed to provide the unredacted email communication on an *ex-parte* basis. Upon receipt, the Tribunal will consider its relevance and confidential nature to decide if it should be disclosed to the Applicant.

Case management discussion

16. Having reviewed the parties' submissions, the Tribunal considers it appropriate to invite the parties to a case management discussion ("CMD") pursuant to art. 19 of its Rules of Procedure, to facilitate the fair, efficient and expeditious disposal of this case.

17. The purpose of the CMD is to:
- a. Identify the factual and legal issues to be determined;
 - b. Consider what further information, if any, is required;
 - c. Consider if the case may be decided on the basis of the parties' written submissions or if a hearing should be held; and
 - d. Discuss any other matter relevant to these proceedings, including whether the parties are amenable to consider an informal resolution of the dispute.
18. In particular, at the CMD the parties are instructed to be prepared to:
- a. Further elaborate on their position about receivability;
 - b. Further elaborate on their position about legitimate expectations; and
 - c. Explore the possibilities of referring the case to mediation.
19. In addition, the Respondent is instructed to brief the Tribunal and present evidence regarding the rationale behind the contested decision to rescind the decision to terminate the Applicant's contract.

Conclusion

20. In view of the foregoing, it is ORDERED THAT:
- a. The Applicant's motion for leave to file comments on the reply is granted;
 - b. The Respondent must submit the unredacted version of annex J on an *ex parte* basis **by Friday, 21 October 2022**; and

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c. The parties shall attend a CMD on **Wednesday, 2 November 2022 at 2.30 p.m. (Geneva time)**, which will be conducted virtually via Microsoft Teams.

(Signed)

Judge Teresa Bravo

Dated this 18th day of October 2022

Entered in the Register on this 18th day of October 2022

(Signed)

René M. Vargas M., Registrar, Geneva