



Before: Judge Alexander W. Hunter, Jr.

Registry: Nairobi

Registrar: Abena Kwakye-Berko

NJENGA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON SUSPENSION OF
PROCEEDINGS**

Counsel for the Applicant:

Brandon Gardner, OSLA

Counsel for the Respondent:

Isabel Martinez, UNEP

Camila Fuomene A. Nkwenti, UNEP

Introduction

1. The Applicant served as a Programme Assistant at the United Nations Environment Programme (UNEP) on a permanent appointment at the G-6 level. She was retired from the Organisation on 31 August 2016.

Procedural History

2. On 11 August 2017, the Applicant filed an application with the United Nations Dispute Tribunal in Nairobi to challenge the Respondent's decision to not compensate her for "mistakenly forcing her to retire at 60" rather than at 62 years of age. The Applicant contends that this mistake – which the Respondent has admitted to making in an email to the Applicant - has affected the calculation of her pension entitlements.

3. The Respondent filed his Reply to the application on 13 September 2017, arguing that the application should be dismissed both on receivability and substantive grounds.

4. On 3 September 2018, the Tribunal sought the Applicant's submissions in response to the Respondent's arguments on receivability. The Applicant filed these submissions on 5 September 2018.

5. On 25 September 2018, the Tribunal issued Order No. 149 (NBI/2018) advising the parties that it is "of the firm view that this matter can be peaceably and equitably resolved" *inter partes*. The parties were directed to jointly inform the Tribunal if settlement discussions can be undertaken by themselves or if an order formally referring this matter to mediation was preferred.

6. On 12 October 2018, the parties jointly requested a formal referral to mediation.

7. On 15 October 2018, the Tribunal issued Order No. 162 (NBI/2018) referring this matter for mediation by the Office of the Ombudsman and Mediation Services (OMS), and suspending these proceedings while the parties attempt to have this matter settled without recourse to litigation.

8. On 8 November 2018, the OMS informed the Tribunal that the parties are engaged in good faith efforts to find a mutually agreeable solution to the dispute between them. OMS moved the court to extend the suspension of proceedings through 15 February 2019.

9. On 20 November 2018, the Tribunal issued Order No. 179 (NBI/2018) granting the extension of time requested by the Parties.

10. On 13 February 2019, OMS moved the Court for extension of time to conclude the ongoing mediation talks between the Parties.

DIRECTIONS

11. The Tribunal commends the parties for having the dispute between them resolved amicably.

12. The Tribunal makes the following **ORDERS**:

- i. The motion for extension of time is **GRANTED**;
- ii. The parties and/or OMS should advise the Tribunal on the status of mediation by **1 April 2019**;
- iii. The Registry is **DIRECTED** to serve a copy of this Order on the Office of the Ombudsman and Mediation Services (OMS);

- iv. The proceedings in the matter of *Njenga v Secretary General of the United Nations* (UNDT/NBI/2017/067) hereby remain suspended pending mediation.

(Signed)

Judge Alexander W. Hunter, Jr.
Dated this 15th day of February 2019

Entered in the Register on this 15th day of February 2019

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi