



Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

HANDY

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**JUDGMENT ON AN APPLICATION
FOR REVISION**

Counsel for the Applicant:

Natalie Puchalka, OSLA

Counsel for the Respondent:

Nicole Wynn, AAS/ALD/OHR

Rosangela Adamo, AAS/ALD/OHR

Introduction

1. The Applicant is a Political Affairs Officer at the P-4 level, working with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA).¹

2. On 18 October 2019, he filed the current application for revision of Judgment No. UNDT/2019/151 on the ground that there exists a decisive fact that was, at the time the Judgment was rendered, unknown to the Tribunal and the Applicant.

3. The Respondent filed a reply on 21 November 2019.

Facts

4. On 16 August 2019, the Applicant filed Case No. UNDT/NBI/2019/131 contesting the decision of MINUSCA to permanently withdraw his driver's permit.

5. The Respondent filed a reply on 4 October 2019 where it was argued that the application was not receivable *ratione materiae*. The Respondent documented that on 26 September 2019, the Management Evaluation Unit decided to rescind the permanent withdrawal of the Applicant's driver's permit.

6. On 16 October 2019, the Tribunal issued Judgment No. UNDT/2019/151 dismissing Case. UNDT/NBI/2019/131 as moot.

Applicant's submissions

7. The Applicant maintains that at the time the Judgment was rendered the Tribunal was not in possession of all relevant facts that, if known, would have had a decisive impact on the decision of the Tribunal. Specifically, while the Respondent submitted that the decision was rescinded, in reality the decision had not been rescinded and the driver's permit had not been returned to the Applicant.

Respondent's submissions

¹ Application, section I.

8. The Respondent submits that the Secretary-General rescinded the contested decision. MINUSCA has been instructed to promptly implement the Secretary-General's decision within 30 days.² MINUSCA indicated that the Applicant's driver's permit expired on 31 December 2018 and its renewal is subject to MINUSCA receiving satisfactory medical clearance for the Applicant to drive.³ MINUSCA has also indicated that its Chief Medical Officer has advised the Applicant of the requirement to obtain the medical clearance from his attending physician and thereafter submit it to MINUSCA for processing the renewal of his driver's permit.⁴

CONSIDERATION

9. By virtue of art. 12.1 of the Statute of the Tribunal:

Either party may apply to the Dispute Tribunal for a revision of an executable judgement on the basis of the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Dispute Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence.

10. The Rules of Procedure of the Tribunal embody similar provisions in art.29.1.

11. In the present case, the Tribunal finds that the Applicant is not seeking a revision of the Judgment per se; rather he is asking for an order or a mechanism of enforcing the administrative decision that had rendered his initial application moot. This demand cannot be satisfied. Whereas the Dispute Tribunal may issue an order in relation to implementation of its judgment on the merits, it does not interfere in administrative processes where the matter as such is outside its cognizance. Case. UNDT/NBI/2019/131 was moot at the time of handing down Judgment No. UNDT/2019/151 and so remains, in that the Administration had issued a decision fully satisfying the Applicant's claims. Should the Applicant believe that there has since been a discrete decision taken by MINUSCA not to return his driver's permit, in

² Reply, annex I.

³ Reply, section B, para 7.

⁴ Ibid.

violation of the decision of the Secretary-General in his case and/or rules of general applicability, he may challenge such a decision through appropriate procedures.

12. The present request for revision is, in any event, denied for the want of valid statutory basis.

JUDGMENT

13. The application is dismissed.

(Signed)

Judge Agnieszka Klonowiecka-Milart
Dated this 26th day of November 2019

Entered in the Register on this 26th day of November 2019

(Signed)

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