



UNITED NATIONS DISPUTE
TRIBUNAL

Cases Nos.: UNDT/GVA/2014/009
UNDT/GVA/2014/028
Order No.: 125 (GVA/2014)
Date: 18 August 2014
Original: English

Before: Judge Thomas Laker
Registry: Geneva
Registrar: René M. Vargas M.

NIELSEN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON A MOTION FOR CHANGE OF
VENUE**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Federica Midiri, UNFPA

Introduction

1. On 16 March 2014, the Applicant, a former Procurement Assistant (G-5) in the United Nations Population Fund (“UNFPA”), filed an application with the Geneva Registry of the Tribunal, contesting the decision to place her on special leave with full pay, dated 23 September 2013. The case was registered under Case No. UNDT/GVA/2014/009.

2. On 26 May 2014, the Applicant filed another application with the Geneva Registry of the Tribunal, which was registered under Case No. UNDT/GVA/2014/028, and in which she contested the following decisions:

- a. Not to select [her] for the position of Quality Assurance Assistant, G6 (one of 2 positions);
- b. Not to select [her] for the position of Procurement Assistant, G5 (one of 5 positions);
- c. Continuation of blocking [her] personal emails even after the end of [her] [temporary appointment (“TA”)] contract with UNFPA PSB;
- d. Continuation of UNFPA PSB ordering UN City Security (in UN City Copenhagen) to inform any inviting [her] person/UN agency in UN City Copenhagen that [she was] not allowed to enter UNFPA Copenhagen premises (2 PSB’s wings inside the UN City) even after the end of [her] TA contract with UNFPA PSB;
- e. UNFPA not conducting [her] [Performance Appraisal and Development (“PAD”)] Rebuttal process in principle or not following the due process and not communicating with [her];
- f. The UNFPA Policy on PAD Rebuttal ... saying that the Rebutted PAD is final.

3. On 13 June 2014, the undersigned Judge rendered Judgment *Nielsen* UNDT/2014/061, dismissing parts of Case No. UNDT/GVA/2014/028. The Tribunal concluded that the application was irreceivable with respect to the decisions listed under lit. c) to f) of the application (see para. 2 above), and decided that the proceedings would continue only with respect to the Applicant’s

non-selection for the two posts as listed under lit. a) and b) of her application. The Applicant appealed said judgment on 25 June 2014 (Case No. UNAT/2014/623).

4. On 18 July 2014, the Applicant filed a motion under Case No. UNDT/GVA/2014/028 to, *inter alia*, request the Tribunal “to decide when and how to transfer [her] cases [UNDT/GVA/2014/009 and UNDT/GVA/2014/028] to UNDT Nairobi Office”.

5. In support of her request for change of venue the Applicant referred to Judgment *Nielsen* UNDT/2014/061, which she had appealed, and expressed her concern that this Tribunal might be biased against her and that she might not achieve “fairness” if the proceedings were to continue in Geneva. She also argued that her nationality might negatively influence the handling of her cases in Geneva.

6. By Order No. 113 (GVA/2014) of 24 July 2014, the Respondent was granted the possibility to respond to the Applicant’s motion of 18 July 2014, which he did on 11 August 2014, objecting to a transfer of the cases to another Registry. On 12 August 2014, the Applicant filed a motion asking for leave to comment on the Respondent’s response of 11 August 2014; her comments were already included in her motion.

Consideration

7. Article 6 (Filing of cases) of the Dispute Tribunal’s Rules of Procedure states as follows:

1. An application shall be filed at a Registry of the Dispute Tribunal, taking into account geographical proximity and any other relevant material considerations.

2. The Dispute Tribunal shall assign cases to the appropriate Registry. A party may apply for a change of venue.

8. In view of the above, the Tribunal recalls that the internal justice system of the United Nations does not offer applicants a free choice of one of the Tribunal’s Registries or of the judge who will consider their case. Indeed, pursuant to art. 6.2

of its Rules of Procedure, it is the Tribunal that assigns cases to the appropriate Registry, and sec. 14 of the Tribunal's Practice Direction No. 4 additionally provides for a geographical distribution of the cases between the three Registries.

9. In accordance with these provisions, the Applicant's cases have been assigned to the Geneva Registry where they shall remain unless convincing reasons call for a change of venue. None of the reasons provided by the Applicant justify a change of venue of her cases to the Nairobi Registry. Indeed, the Applicant's main arguments in support of such a change of venue are linked to the way this Tribunal has been dealing with her two cases, and in particular to her disappointment in view of the outcome of parts of Case No. UNDT/GVA/2014/028 as reflected in Judgment *Nielsen* UNDT/2014/061. While such reasons may be used within the framework of an appeal, they do not constitute valid grounds for a transfer of her cases to another Registry.

Conclusion

10. In view of the foregoing, IT IS ORDERED that:

The Applicant's motion for change of venue be rejected.

(Signed)

Judge Thomas Laker

Dated this 18th day of August 2014

Entered in the Register on this 18th day of August 2014

(Signed)

René M. Vargas M., Registrar, Geneva