



Before: Judge Goolam Meeran

Registry: Nairobi

Registrar: Abena Kwakye-Berko

PEDICELLI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

Counsel for the Applicant:

George Irving

Counsel for the Respondent:

Katya Melliush, UNON

Camila Nkwenti, UNEP

Introduction

1. On 4 August 2016, the Parties were informed that this matter has been transferred to the docket of Judge Goolam Meeran.
2. On 9 August 2016, the Tribunal issued Order No. 410 (NBI/2016) setting the matter down for a Case Management Discussion (CMD).
3. The CMD took place on 17 August 2016, in the presence of the Applicant and Counsel for both Parties.
4. On 18 August 2016, the Tribunal issued Order No. 416 (NBI/2016) summarising the case management discussion.
5. On 26 August 2016, the Tribunal issued Order No. 423 (NBI/2016) seeking the Respondent's submissions on the "legal basis for his contention that this tribunal has power to review the factual findings" of the United Nations Appeals Tribunal (UNAT).

ORDERS FOR Further Particulars and Submissions

6. The Parties are required to answer the following questions pursuant to the case management powers of the Tribunal under art. 18 of the UNDT Rules of Procedure:
 - i. Questions arising from the Respondent's Closing Submissions dated 17 March 2016:
 - a) Does the Applicant accept paragraph 2 of the submissions? If not, the Applicant is required to state the grounds upon which she challenges the Respondent's contentions in this paragraph;
 - b) Paragraph 3: does the Applicant accept that she has not lost out financially because she was not being paid less following what has been referred to as the "renumbering exercise."?

- c) Paragraph 6: Does the Applicant accept the Respondent's assertion that the renumbering exercise has not affected her standing, functions or financial benefits? In the event that the Applicant is challenging this contention, she is to specify grounds in support thereof.
 - d) Paragraph 9: the Applicant is required to state all facts and arguments, including any actual examples of such lateral transfers, in support of her contention that but for the renumbering of her post, she would have been eligible to apply for a lateral transfer to a GS7 post.
 - e) Paragraph 14: Does the Applicant accept the Respondent's contention that she suffered no loss. In the event that she challenges this contention, she is to state any and all additional facts and arguments being relied upon.
- ii. In response to the Respondent's submissions dated 2 September 2016, the Applicant is to:
- a) clarify her position in respect of the Respondent's contention that UNAT's factual finding that she suffered a reduction in salary was based on incorrect information, and that she did not in fact suffer a loss in salary as a direct consequence of the change in her grade from G7 to G6;
 - b) address the Tribunal on whether she accepts the Respondent's legal contentions as to the powers of this Tribunal to review the facts *de novo* in light of the Appeals Tribunal's findings.
- iii. Further to the Applicant's Closing Submissions dated 10 March 2016, the Applicant may provide any additional grounds upon which she contends that what the Respondent refers to as a renumbering exercise was in fact a reclassification of the post.

- iv. The Respondent is to address the Tribunal on its reasons for not seeking revision and/or interpretation of the UNAT judgment as provided for in art. 11 of the Statute of the Appeals Tribunal and arts. 24, 25 and 26 of its Rules of Procedure.

IT IS ORDERED THAT:

7. The Parties are required to file their submissions in response to this Order on or before 14 September 2016.

8. The case will be decided on the basis of the documents on file and no further motions, comments or submissions are to be filed without leave of the Tribunal.

(Signed)

Judge Goolam Meeran

Dated this 7th day of September 2016

Entered in the Register on this 7th day of September 2016

(Signed)

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